

INTRODUCTION TO SOCIAL SCIENCE

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A SURVEY OF

Collaborating Authors

DAVID HORTON · PEARL FRANKLIN

PETER MASIKO, JR. · GEORGE C. ATTEBERRY

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NEW YORK · 194

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VOLUME II

Foreword by

LOUIS WIRTH, *University of Chicago*

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FOREWORD

There is no longer any serious controversy among educators and informed laymen as to the need for conveying to the rising citizenry an understanding of the social world. The almost universal inclusion of social studies in school curricula is proof of the recognition that among the primary functions of contemporary education is the orientation of the young with reference to the society of which they are a part. There is still considerable difference of opinion, however, among the experts concerning the ways and means by which the schools might best discharge this obligation.

No normal young person can grow up in our civilization and participate in the daily affairs of his family and community without imbibing a great deal of the knowledge and coming to share most of the basic values of the society in which he lives. By the time he reaches the college level the student may be expected to have some familiarity, based upon personal experience, with the major social issues confronting us and to have some convictions with reference to the conflicting programs for dealing with these problems. Hence the student never approaches the study of social science with the same degree of ignorance and the same unbiased frame of mind with which he begins his study of the physical and the biological universe. Whereas in his initial contact with physics, chemistry, and biology he is relatively ignorant and neutral, in the case of the social sciences he is filled with preconceptions and ready to give the final answers to questions that still baffle the experts.

A large and important part of the work of an introductory course in the social sciences must therefore necessarily be directed toward aiding the student to unlearn what he thinks he already knows. This may frequently involve the unsettling of his dogmatic convictions, to be followed by the attempt to get him to view questions as open which he may have considered as already closed, and to guide him in acquiring a new perspective of his society and its problems. It is probably impossible for anyone ever to view any acute social issue with the same detached and dispassionate objec-

tivity with which the natural scientist views his subject matter in the laboratory. Complete self-effacement also carries with it a corresponding disinterestedness which in matters social is both impossible and undesirable. There are indeed many subjects of interest to social scientists in which personal biases and interests play a minor role, but they generally are subjects on which we must content ourselves with the most external and mechanical knowledge. If we would go beyond this superficial knowledge and attempt to obtain some genuine insights, however, we must get an intimate acquaintance with our subject matter, which in social phenomena involves some degree of participation in and extension of our personal experience into the situations we hope to study.

Most of the crucial questions to which students of social science must be introduced in social science courses are regarded as controversial by some elements in our society. Hence, it appears well-nigh impossible to write a thoroughly objective textbook in the social sciences, and if such a book were to be written it would probably be so devoid of interest to anyone that no one could be induced to read it.

/ Although the authors of this volume have attempted to present the most authentic knowledge that is available on their respective topics, I could not claim for them that their work will be found wholly unbiased on all the issues they have treated. It is possible to say something much more complimentary and significant about their work, however, namely, that they have made diligent efforts to make their biases explicit and bring them out into the open where they may be viewed in relation to other conceivable biases and in the light of the facts established by the consensus of the competent.

There are already many textbooks available designed to furnish an introduction to the social sciences for junior college and college students. Each perhaps represents the procedures which its authors have found most nearly in accord with their preconceptions both as to the nature of social science and the best methods of teaching it. While no apology is therefore necessary on the part of the authors of the present work for adding another book which incorporates their preferences and the fruits of their extensive experience, for the use of their own classes, it is appropriate that the editor address a word to other teachers indicating why they too might find the volume suited to their students.

This work is designed not as an introductory outline or syllabus in the social sciences but as a complete text, requiring only a limited and inexpensive library of supplementary readings which may be judiciously selected from the bibliographies following each chapter, in case it is desired to induce students to familiarize themselves with a wider range of source materials.

Unlike a number of other volumes now in use, this work employs the "problem approach" to the social sciences. It thus has a closeness to the life of our time and presumably to the actual experiences and situations confronting the student. This essential quality is generally found wanting in textbooks designed on a formal and abstract pattern. The authors of this volume believe that more sound theoretical knowledge of a subject matter can be gained by analyzing actual problems the genuineness and reality of which the student recognizes on the basis of his own experience, rather than by confronting him with a highly systematized body of formal propositions of the meaning and relevance of which he may be only remotely and faintly aware.

This work, moreover, proceeds on the assumption that in an introductory text it is not desirable to deal with the academic disciplines constituting social science as rigorously separable subjects. The authors believe that the distinctive concepts, methods, and problems of economics, political science, sociology, and related sciences can be more effectively presented in more advanced courses and that what is required in an introduction is a realistic view of our total social scene with emphasis upon the common elements which bind the social sciences together. This is another reason why the authors have chosen concrete problems for analysis in which all of the relevant interests of the different social sciences are brought to bear upon the subject matter.

While the authors have made diligent efforts to incorporate the most recent findings of fact and interpretation into the treatment of the wide range of problems which make up their text, they realize that our social world is in a state of continuous flux and that what is acceptable today may be outmoded very shortly. They have tried to look behind the headlines of the moment and to deal with the basic and continuing problems of our society, from a long-range perspective, exemplifying in the analysis of each problem the characteristic mode of approach of the social scientist. Just as

the work which they now offer in print is the product of many years of experimentation and constant revision, so they expect that the relentless march of events, and their own and others' experience with this text, will call for further revisions in the future. What they now offer, however, represents the product of continuous and fruitful collaboration of many minds, each trained in some one of the social science disciplines and enriched by the experience of many years of participation in a pioneer educational enterprise in the development of the social science course in the Chicago Junior Colleges.

LOUIS WIRTH

The University of Chicago
August, 1941

AUTHORS' PREFACE

This text is designed for a course which introduces the student to the whole area of social science rather than to economics, political science, or sociology as such. It has been evolved over a period of seven years' experience in teaching the social science survey course required of all freshmen in the three Chicago City Junior Colleges as part of their general education. This volume has gone through the rigorous test of experience, first as mimeographed outlines and syllabi and then as a planographed text, of which there have been two editions. The present work represents the product, therefore, of the considerable experience and thought of a group of social science instructors working cooperatively to meet the needs of students in an introductory survey course of the social sciences.

While a survey course must deal with much the same subjects as those taken up in separate courses in the traditional curriculum, it has, however, at least two distinct advantages over the more specialized elective courses of the usual variety.

In the first place the survey introduces the student not merely to a single segment of an area of study but to all the segments. Even if it did nothing more than this, it would have merit, because under the traditional elective system the average student, who does not go on to specialize in the social sciences, would probably become acquainted with only one, if indeed any, of the segments of an entire area. Thus a student might elect a course in economics and complete his college education without having even a speaking acquaintance with political science and sociology.

Secondly, the survey should give the student an appreciation of the interrelationships of the parts of a broad field of study and some understanding of the whole as a unit.

While there has been growing recognition of the advantage of studying the social sciences, no one seems to have been able to achieve an easy synthesis. This text does not claim to have discovered a complete solution for this problem. An approach to

social science, however, which is especially meaningful to the general student and which at the same time facilitates an understanding of the interrelationships between the individual social science disciplines is the so-called problem approach; and that, with modifications, is the approach followed in the present work. As pointed out in Chapter I, the problem approach emphasizes social situations wherein society and the individual are not completely satisfied with the degree to which collective and individual desires are fulfilled. The problem approach is therefore highly functional because it is concerned not merely with knowledge for the sake of knowledge but with knowledge as a means of understanding common social problems and thereby helping to solve them.

So viewed, a survey course in the social sciences should play an extremely important part in the preparation for citizenship in a democracy, where each individual as well as each social group must feel a keen responsibility for meeting the problems of society intelligently, courageously and with a minimum of social friction. That the solutions will be relative rather than absolute makes them no less important.

This text is designed to realize the following objectives: to introduce the student to the problems of contemporary society; to find what groups are most affected by these problems; to show by relevant historical data how these problems came to be and what has already been done about them; and to demonstrate in what way economics, sociology and political science contribute to an understanding and the possible solution of these problems.

Before the student plunges into a consideration of specific social problems, however, it seems highly desirable that he understand the basic factors which underlie most if not all social problems. The first section of the work is designed to present the salient material for such an understanding. Thus, Chapter I on "Social Change and Social Problems" attempts to develop the meaning of social problems and of social change and to point out their interrelationships. An understanding of population and technology, treated in Chapters II and III, is considered so basic to all social problems that a study of these two factors should precede the consideration of more specific problem areas. After these basic factors have been mastered, the student should be prepared to analyze certain specific social problems which, because of their general importance

in the American scene, are deemed significant enough for inclusion in an introductory course in the social sciences.

If because of the limitations of time, or for any other reasons, it is considered wise or expedient to omit certain of these problems to meet the needs of the particular college courses, such omissions may be made without unduly disturbing the continuity of the course, for generally each social problem, while related to other social problems, is also treated as a unit in itself. This should make the text readily adaptable to courses which have a wider or narrower scope or follow a different sequence.

To facilitate the orderly presentation of the specific social problems dealt with, this text organizes them under three broad headings, as follows: "Social Relations and Social Problems"; "The Competitive System and Social Problems"; and "Government and Social Problems." Since the separate departmental disciplines of sociology, economics and political science have a logical unity of their own, nothing is to be gained by an artificial attempt to disguise this fact. Cross references from one chapter to another tend to emphasize whatever significant interrelationships there may be between fields and between problems.

The individual chapters themselves are designed to present each problem in its historical and factual setting. It is always a difficult task to attain a proper balance of factual or descriptive material and generalizations, and it would indeed be strange if each chapter in this volume met the standards of every reader. Where a balance has been only imperfectly attained the instructor can perhaps make the appropriate correction, adding according to his own taste the leaven of generalization or the substance of facts. The bibliographies appended to each chapter will serve as references to additional treatment of the same problems. The bibliographical references have been carefully selected according to the criteria of relevancy, recency, and general availability in most college and junior college libraries. The questions at the end of the chapters are designed to be useful for class discussion, for outside written work and for guidance of independent study. Since adequate understanding of a specialized vocabulary constitutes a problem for many students in introductory courses, the most important technical words or phrases used in the text are listed at the end of each chapter in which they first occur under the heading "Terms to Understand."

The arrangement of the text lends itself to use in both the quarter and semester systems of instruction. In the quarter system the first two sections may be covered in the first quarter, with a section remaining for each of the other two quarters. For practical reasons the text is being issued in two volumes, with each of the volumes suitable for one semester's work. Thus it is hoped that the needs of different institutions may be met by the quality of flexibility which the text possesses.

This text could not have been written without the help and criticism of many persons, some of whom are no longer associated in this enterprise, who have played a part in the building of the social science survey courses in the three Chicago City Junior Colleges. The authors wish to acknowledge in particular the helpful guidance and advice of the Deans of the three junior colleges, John A. Bartky, Dorph Brown, and William H. Conley, who constitute an advisory committee on the social sciences, of which Dean Conley is chairman. To the many authors and publishers who have kindly granted us permission to make use of their materials our sincere thanks are extended. The authors also owe a debt of gratitude to Miss Janet Glamore and to Miss Mary Joyner for their valued secretarial assistance at various stages of the preparation for publication.

A special expression of appreciation is due Dr. Louis Wirth, the publisher's editor, whose wise and tolerant counsel and broad vision have been of inestimable value. For all errors of omission and commission, however, the authors assume full responsibility.

THE AUTHORS

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PART III
THE COMPETITIVE SYSTEM AND
SOCIAL PROBLEMS (*Continued*)

LARGE-SCALE BUSINESS ENTERPRISE

The Problem of Large-Scale Business. Big business is a social problem chiefly for three reasons: (1) in many industries it drives small business and the small businessman out of existence; (2) it concentrates great economic and even political power in the hands of relatively small groups; (3) it frequently creates monopolies or near-monopolies which have great power over production and prices. This third characteristic partly accounts for the other two, and it explains most of the efforts during the last seventy years to curb and regulate big business, efforts which have brought about a great expansion of government control over private enterprise.

The Origins of Big Business in the United States. Before the Civil War there was no big business problem in this country. Of course even in colonial times there were land companies and trading companies in America which, relative to the population and wealth of the period, were large. But the power of such great enterprises was limited because there were still hundreds of millions of acres of unoccupied and unclaimed lands; and trade was not nearly so important in the lives of the people as it is today. Towns of even 10,000 inhabitants were very few. Most people made a living directly from the land and produced for themselves the clothing, furniture, and household utilities which they required. Under such conditions the existence of a few large land and trading companies did not affect the majority very directly. The modern problem of monopolistic big business was not to appear until there had been a phenomenal growth of trade and transportation, accompanied by the rise of large-scale manufacturing and a great development of the public-utility industries.

In the first half of the nineteenth century a number of things happened which brought about larger business units and an increasing use of the corporate form of organization. Banking became more and more important. By 1815, partly as a result of the

Napoleonic Wars and the War of 1812, the factory system had gained a firm foothold in this country. The larger cities rapidly introduced water systems and gas lighting. Mechanization of land transportation began with the first railroads in the 1830's; and the first of the great modern communication utilities, the telegraph, came into use in 1844. Not, however, until about the time of the Civil War did one begin to find business units that were large by present-day standards.

One of the early industries to require very large capital investment in a single enterprise was the railroads. In the beginning railroads were only short lines between neighboring towns. In going from New York to Buffalo by train one had to travel on more than a dozen different roads. Such a situation was, of course, very unsatisfactory, and in the decade before the Civil War a large number of consolidations took place. By 1860 it was possible to travel between many of our important cities on a single railway line, and some of these lines were truly large-scale business enterprises.

Not only were the railroads big business, they also tended to be monopolies.¹ Although there might be two or more lines between important terminals, most of the territory served depended on a single road. Wherever competition did exist, it soon became common practice for the roads involved to attempt to eliminate it by making agreements to pool traffic and maintain uniformly high rates. As a result, scarcely was the Civil War over when agitation for public regulation of the railroads began. The farmers, especially, felt that they were being robbed by unreasonable and discriminatory rates; and, organizing in the Granger movement, they began to put pressure on the state legislatures to pass laws limiting railroad rates and prohibiting certain unfair practices.

One of the first milestones on the road toward the regulation of monopolistic big business was set up in 1869, when the Illinois legislature passed an act requiring that railroads should charge "just, reasonable, and uniform" rates. Other states soon followed suit, especially after the panic of 1873; and in 1887 federal regulation of railroads was begun with the creation of the Interstate Commerce Commission.

¹ For a discussion of monopoly, see Vol. I, Chap. XVII.

Soon thereafter the problem of monopoly control by great industrial combinations began to receive increased attention. The Standard Oil Company had been created in 1879 and was followed within ten years by the "Whiskey Trust," the "Sugar Trust," and others. To meet this trend Congress passed in 1890 the Sherman Antitrust Act, the first federal legislation against combinations or agreements tending to restrain trade and create monopoly. But because the wording of the Sherman Act was vague, and the courts at first seemed unwilling to enforce it, it by no means put an end to the combination or "trust" movement. This trend continued, and reached its height in the years from 1897 to 1903, during which period more trusts were formed than at any other time in our history.

Since 1903, except for a period of revival in the twenties, the combination movement has proceeded at a much slower pace. Meanwhile another force which tends to increase the size of the business unit has come to the fore, namely, the development of mass-production techniques in manufacturing.

Why Business Units Have Grown Larger. Today there are a number of business corporations of such mammoth size that they employ hundreds of millions of dollars in capital, tens of thousands of men, and carry on operations that cover a large part of the globe. The reasons for the development of such enterprises are many. They include the desire for monopoly, the development of machine technology, and favorable legislation. The last two of these factors require special comment.

The Influence of Power Machinery. Perhaps the factor that most stimulated the growth of large-scale enterprise was the introduction of power machinery in the production of a vast number of goods and services. But to use machinery advantageously it was necessary to develop a unit larger than the home shop; (1) because the machinery and the power plant to operate it were too expensive to be built for the use of only two or three men; (2) because the machine method of production can be applied only by extending the division of labor.

When shoes were made by hand, one skilled shoemaker could do all the work. But no one was able to invent a single machine to make a shoe. Instead, it was necessary to divide shoemaking into its component operations, and to devise a separate machine

to perform each of the many different processes. One machine might sew two parts together, another cut out a sole, and a third punch holes for laces. But this method of making shoes not only required many machines, it also required one or more workers to operate each. In order that all these workers and machines might be used to advantage, they had to be brought together in one place, so that materials could easily be routed from one process to the next; and a very large number of shoes had to be produced, so that all the workers and machines could be kept constantly busy.

The more units of a product a factory produces, the more it is possible, up to a certain limit, to reduce costs, (1) by mechanizing a larger proportion of the operations, and (2) by employing the most efficient types of machinery. It is said that the dies and other equipment for stamping out and shaping the parts of a modern automobile body cost from \$2,500,000 to \$6,000,000.¹ If you make only five or ten cars a day, you cannot possibly afford such an expense. But if you turn out hundreds or thousands of automobiles a day, the original cost of the dies is spread out over so many units that it becomes relatively unimportant compared to the tremendous savings in time and labor on every car produced. This fuller utilization of machinery, including such devices as the conveyor belt for the efficient routing of parts and materials, explains a large part of the dependability and cheapness of modern mass production. But only the industrial giants can afford and can use to advantage the superequipment which modern technology offers for the making of products like automobiles and steel.

However, the effect of power machinery in stimulating the growth of large-scale industry has not been limited to its use in manufacturing. Large-scale production depends upon the existence of large markets, and the great territorial expansion of markets in the last hundred years is a direct result of the application of power to machines. First, such power machines as the steamboat, the locomotive, the truck, and the airplane have made possible cheap and rapid transportation. Second, power machines have greatly contributed to the ease and speed of long-distance com-

¹ Edwin G. Nourse and Horace B. Drury, *Industrial Price Policies and Economic Progress*, The Brookings Institution, Washington, D. C., 1938, p. 61.

munication by furnishing the equipment and power for the telegraph, the telephone, and the radio. Third, machines have created national advertising, the development of which is a direct result of modern transportation and communication facilities, and of devices like the power printing press.

Another typical product of the machine age which has contributed to the growth of both monopoly and big business is the public-utility industries. They include the railroads, telegraphs and telephones, streetcars and buses, electric power plants, and the like. With unimportant exceptions, the very nature of the business they do requires them to be monopolistic, and in many cases they must also be very large.

The Influence of Legislation on Large-Scale Enterprise. Legislation has played a dual role in relation to the growth of big business. Much attention has been given to laws attempting to restrict big business, especially monopolistic combinations. Less attention is usually paid to the fact that legislation has also encouraged big business and made possible its modern development.

Especially important in this connection has been the legalizing of forms of organization that lend themselves to large undertakings. Without the corporation most of our greatest enterprises would be impossible. The corporation¹ in some form goes back to antiquity, but its adaptation to the needs of modern business occurred largely in the latter part of the eighteenth and the first half of the nineteenth centuries. Two important steps were taken to make the corporation more readily available as a form of business organization. First, statutes were passed which limited the liability of a stockholder for company debts, usually to his investment in the stock. This made people much more willing to buy stock than they had been when, as in the case of the old joint-stock company, the holder of a single share was liable for debts to the extent of all his property. Second, general incorporation acts were passed which made it possible to organize a corporation without a special act of the legislature as was formerly required.

A development that greatly facilitated bringing a number of corporations together under unified control was the legalization of the holding company by New Jersey in 1889. A holding company is a corporation which owns a controlling stock interest

¹ For a description of the corporation, see Vol. I, Chap. XVI.

in other corporations. Prior to 1889 it was illegal, because one company was not permitted to hold stock in another. But other states soon followed the action of New Jersey, and today many of our largest business enterprises are holding companies. They include such giants as the American Telephone and Telegraph Company¹ (The Bell Telephone System), the United States Steel Corporation, and General Motors.

Advantages and Disadvantages of Large-Scale Enterprise.

We have already mentioned certain things which give the very large business an advantage over smaller concerns, namely, the employment of national advertising, the more effective use of machines, and the exercise of control over production and prices. But these are by no means the only advantages which it has. The large business can often buy materials at lower prices, because it can bargain for larger quantities. It can better afford to hire experts and to maintain research laboratories. It can effect economies in marketing in various ways, for example, by locating factories in different parts of the country to reduce freight charges on goods shipped out. It can utilize by-products which a small concern could hardly afford to bother with. In these and other ways it can reduce its costs and increase its profits.

On the other hand, it is important to keep in mind that there are a number of industries in which, for a variety of reasons, there seems to be no advantage in great size. For instance, in an industry like the manufacture of women's clothing real mass production is impossible because the producer must cater to changing styles and the individual preferences of customers. The market for any one style of garment is temporary and limited, and therefore it does not pay to install highly specialized machinery to produce it. The better the grade of clothing, the more demand there is on the part of customers for individuality, and this requires a great variety of styles, much handwork, and more personal attention on the part of the business executive. In producing such goods the small or moderate-sized firm usually has an advantage over the very large firm.

Even in the so-called mass-production enterprises size promotes

¹ Among the corporations controlled by the American Telephone and Telegraph Company are most of the local telephone companies in the United States, and a great manufacturing subsidiary, Western Electric Company.

efficiency only up to a certain point. After the optimum, or best size, is reached disadvantages begin to outweigh advantages. Further growth brings a disproportionate increase in the costs of maintaining the organization, of keeping accounts, and checking on operations and results. The men at the top have increasing difficulty in keeping in touch with their subordinates, with purchases and sales, and with what is going on in widely-scattered production lines. The business, in short, tends to become unwieldy and inefficient because of its great size.

Big Business in Our Present Economy. Having considered the forces which have brought about the growth of big business, we may now ask just how extensive this growth has been and to what degree small businesses have been replaced.

A study published by the Twentieth Century Fund in 1937, *Big Business: Its Growth and Its Place*, presents some interesting figures on the extent to which big business dominates American economic life. In cigarette making in 1933 the eight largest firms employed 99.4 per cent of all the workers in the industry. On the other hand, in the women's clothing industry, the six largest firms employed only 3.7 per cent of the industry's total workers. Of all American economic activity, including agriculture, 81 per cent was carried on by individuals, partnerships, and small- or medium-sized corporations. Of the total national income produced, corporations with assets of \$50,000,000 or more accounted for only 18.4 per cent. However, corporations of all sizes accounted for 57 per cent of the national income, and 594 of the largest corporations — 0.1 per cent of the total — owned more than half of the assets of all corporations put together.

We have already pointed out that there are limits beyond which size ceases to increase efficiency. This applies not only to the size of the individual plant, but also to the size of the firm which may operate a number of plants. It is therefore not surprising to find that, contrary to popular impression, the giant corporation is not always efficient and profitable. Often it is organized by promoters who are concerned only with making quick profits by financial manipulation. They expect to sell out their interest as soon as possible, and care very little whether the corporation can make money afterwards. Further, the successful management of a super-corporation requires unusual skill; and if control falls into the

hands of businessmen of only average ability, the results are likely to be very disappointing. Even with good management, a great combination is sometimes so unwieldy that it is relatively less profitable than the smaller units from which it was formed. And in those cases where it is strikingly successful, its success frequently comes from monopoly power over prices rather than from greater efficiency and lower costs. If proof is desired that great size alone does not guarantee the success of a business, it may be found in the fact that of the 101 largest corporations in 1919, 20 had either gone into receivership or had been reorganized to avoid receivership by the end of 1934.¹

Some Problems Created by Big Business. Is the growth of big business which we have been describing something to be encouraged or discouraged, or should we be quite indifferent to it? That much of it has been necessary in order to obtain the benefits of modern machine technology is clear. That some of it has not increased productive efficiency but has been motivated by the desire for promotional or monopoly profits is equally clear. In both cases convenient legal devices created by legislatures and courts have helped the movement along. But whether it has increased productive efficiency or not, whether it has been inevitable or not, the growth of large-scale enterprise has unquestionably created serious social problems.

At the beginning of this chapter we listed three things which make the growth of bigness in business a problem. Each of these three is a problem in itself, and the source of many other problems.

The Elimination of Small Business Units. Let us return, first, to the effect of big business in driving out small business. In industries where this occurs because big business can produce at lower costs, there is a gain to the community if the savings are passed on to the consumer. But there is also hardship for many small businessmen, and if they can, they are likely to bring political pressure for legislation to restrain their larger rivals. The antichain-store laws passed in many states in recent years are an illustration of this. But it is not always greater efficiency which gives big businesses an advantage. Sometimes they have succeeded in driv-

¹ Alfred L. Bernheim, *et al.*, *Big Business: Its Growth and Its Place*, The Twentieth Century Fund, New York, 1937, p. 101.

ing out their smaller competitors merely because they had more power and were able to employ unfair competitive methods.

Small business seems likely to hold its own in many fields for a long time to come. Nevertheless, on the whole, its range has been narrowing. More and more, men who in the past would have been self-reliant, enterprising owners of a small business are becoming corporation employees. This reduction in opportunities to achieve economic independence can hardly fail to bring many social changes.

Concentration of Power. The second problem which big business creates is the increasing concentration of economic and political power in the hands of small groups. It is true that the stockholders of many of our great corporations run into the tens and even hundreds of thousands. Real control, however, is either in the hands of a few large stockholders or the "management," that is, the board of directors. Where the bulk of the stock of a very large enterprise is widely scattered among small holders, it is almost impossible to break the hold of the board. The board and the officers it appoints are the only group in a position to get proxies¹ from the bulk of the stockholders. With the aid of these proxies they can vote approval of almost any policy they like, perpetuate themselves in power, and dictate the selection of new board members as vacancies occur. Some of the greatest of our corporations furnish the livelihood, directly and indirectly, for hundreds of thousands of people. Control of such corporations means control of the lives of their workers. It also means control of wealth which can swing elections, buy or put pressure on large sections of the press, give preference before the law, and, at times, pervert our democratic institutions into tools of injustice and oppression.

The tendency of big business to fall under the control of small groups is intensified by the existence of interlocking directorates. It is not at all unusual, in the case of industrial and financial leaders, to find that the same man is a director in a dozen or a score of important corporations.

Creation of Monopolies. The third problem growing out of large-scale enterprise is monopoly. A monopoly is not always big, nor is a big business always a monopoly. If you are the only coal dealer

¹ A proxy is the assignment by a stockholder of his right to vote.

in a very small village, you may have a monopoly. If you have a patent on some unimportant gadget, you are a monopolist, even though you manufacture it in your own basement with your own labor. Nevertheless, it remains true that the modern expansion of monopoly in business is chiefly a by-product of mass production and the trend toward very large business units.

The important thing about monopoly is that it gives those who have it the power to control production and prices, and a very large business, even though it is not strictly a monopoly, often has a good deal of such power. As long as there are hundreds or thousands of producers in an industry, it is useless for any one of them to try to control production or price, and it is impossible to get them all to act in agreement. But in an industry where mass production has great advantages, the number of competitors becomes smaller and smaller as the size of the typical business unit grows. Finally, there may be only a few firms left. When that point is reached, we have the situation described in Chap. XVII as oligopoly, which can easily develop into outright monopoly.

The antitrust laws, to be sure, may prevent the remaining firms from merging into a single corporation, or from making open agreements to control price and production. But the firms do not need to do this. They can obtain the advantages of monopoly almost as well by mere tacit cooperation on price policies. For example, some one company becomes recognized as a leader, and the others, for their mutual advantage and without any explicit agreement, raise or lower their prices whenever the leader does. If such tacit cooperation is not sufficient, it is often easy to make informal, and perhaps secret, "gentlemen's agreements." Or again, a mere exchange of views may result in an effective "implied agreement."

We shall have a clearer grasp of the problem if we understand the degree of monopoly that may exist in an industry usually thought of as highly competitive. Take automobile manufacturing as an illustration. Production is controlled by three super-corporations and half a dozen large "independents." Presumably automobile producers have made no agreements regarding output, prices, or the kind of cars to be produced; yet it is a far cry back to the days when one of them was bending every effort to expand his market by turning out a sturdy, practical car at the

lowest possible price. Today, because they are few, automobile makers find it advantageous and relatively easy to follow certain common policies. For one thing, the "low-priced" cars of all the important producers are comparatively luxurious vehicles selling at similar prices.

The weakening of price competition is usually a sign that an industry is approaching monopoly, that is to say, unity of action on the part of producers. This does not necessarily mean that all competition disappears, but the kind of competition remaining is not always socially desirable. For example, people who can scarcely afford a car are not given the choice between an unpretentious and economical car and a relatively luxurious model. They must either go without, take a secondhand vehicle whose upkeep will be costly, or choose among rather expensive cars that make competing claims regarding size and special features. Or again, where price competition is avoided, producers are likely to compete by expanding their advertising outlays instead, all at the expense of the consumer.

The Problem of Preserving Competition. It has long been widely recognized that monopoly is socially undesirable, because it confers on ordinary business firms the power to tax the public for private benefit. And it is public resentment against paying high prices to enrich monopolists that has been responsible for most of the agitation for business regulation. But it is not so generally recognized that monopoly is in large part responsible for unemployment and business depressions. It would, of course, be very misleading to attribute depressions solely to monopoly, but there is little doubt that it does intensify and prolong them.¹

When we said that monopoly as we find it today is largely a by-product of large-scale business, we did not mean to imply that it is something new in the world. It is possible that there was more outright monopoly before the industrial revolution than there is now. Certainly in earlier times there was a great deal of restriction of trade and industry, by custom, by the trade guilds, and by law.

¹ For a general discussion of the business cycle see Vol. I, Chap. XIX. For a discussion of the effect of monopoly in restricting production and the utilization of labor and other resources see *Organized Scarcity and Public Policy* (Public Policy Pamphlet No. 30) by Harry D. Gideonse, University of Chicago Press, Chicago, 1939.

But the causes of monopoly before the machine age were somewhat different from the causes of it today. Some of it was created by governments through the granting of exclusive privileges to favored groups.¹ More of it was local, resulting from the great difficulties and expense of transportation. When there were no railroads, and even ordinary roads were little more than mud trails, most people had to deal with the neighborhood miller, or merchant, or shoemaker. Even if there were several of these in a given locality, it was easy for them to get together and organize to control the trade. At one time the favorite way of doing this was to form a guild.

Adam Smith, the Scottish philosopher whose great work, *The Wealth of Nations*, has made him the outstanding figure in the history of economic thought, lived most of his adult life in the latter half of the eighteenth century. More clearly than most people, he saw the great benefits of competition in stimulating economic effort and bringing about the more effective use of a nation's resources. To free competition from hampering restrictions, he advocated a policy of laissez-faire, that is, less government interference in business. Gradually this point of view became the generally accepted one, and in the early nineteenth century business in England experienced a degree of freedom never known before. At the same time, the rapid development of means of transportation was effectively breaking the hold of many local monopolies.

But the modern problem of maintaining free competition is of a different nature. A century of technological progress has brought an age of mass production and big business. Laissez faire, instead of breaking up monopolies, now encourages their formation. Today, if competition is to be preserved in as wide a field as possible, we must again resort to government regulation. But it must be government regulation of the right kind. It should not be designed to restrict production, or maintain prices, or protect any vested interest. Instead it should be designed to prevent all those developments in business that tend to stifle competition, except where competition is clearly disadvantageous to the community.² Espe-

¹ It is not, of course, true that government-created monopolies have entirely disappeared. While they are no longer granted openly on the basis of political favoritism, they still exist in such forms as franchises, patents, and copyrights.

² See Henry C. Simons, *A Positive Policy of Laissez-Faire*, University of Chicago Press, Chicago, 1934.

cially it should prevent monopolistic combinations; perhaps it should even penalize great size, when it is not plain that size is really essential to efficiency.

The Control of Monopolistic Big Business. Some people believe that big business has about reached the limit of its growth and that, therefore, we need not worry too much about it. Some even prophesy a trend in the near future toward smaller enterprises. They call attention, for example, to the long-distance transmission of electric power. Before such transmission was possible, small factories were greatly handicapped by the relatively high cost and inefficiency of small power plants. Now any shop, however small, can have available just the amount of power it needs. The cost is relatively low, and no expense is incurred when power is not in use.

But in spite of this and some other developments that favor small business, it is the belief of the writer that there is still a trend toward the large unit; (1) because there are still a number of industries in which technological progress will make larger plants necessary if the fullest and most efficient use is to be made of machinery; (2) because there are still economic advantages to be derived from the monopoly power that often goes with great size.

If we not only have big business with us, but are likely to get more of it, the question of how to control it in the public interest becomes very vital. In attacking the problem we have three choices. First, we might try by legal or other measures to maintain competition. This would mean preventing the further development of great monopolies and breaking up some of those already in existence. Second, we might admit that both monopoly and great size are necessary in certain industries, and concentrate our energies on securing efficient government regulation. Third, feeling that regulation could never be a satisfactory solution, we might resort to government ownership of all industries in which competition could not be maintained. Of course none of these methods entirely excludes the others.

Let us consider the possibility of preventing the further growth of monopolistic big business, or, what would be even more difficult, breaking the hold of such concentrated economic power as already exists. Some of our greatest combinations would hardly have been possible had not convenient legal devices like the hold-

ing company been available. Some of them would certainly not have been possible had the antitrust laws been clear-cut, *and had the courts and public opinion stood behind them*. But while at one time public resentment against the "trusts" was very strong, neither the people nor the courts have really understood the nature of the problem; and in recent years, unfortunately, interest in it has declined.

Antitrust laws are not the only conceivable way of preventing monopoly. Another possibility would be for the government itself to enter business, and compete with existing firms where private competition was lacking. This, of course, would involve government ownership, but the idea would be, not for the government to supplant private business, but merely for it to guarantee the maintenance of competition. One may reasonably suspect, however, that if such a policy were pushed very far, it would end in complete government ownership of the industries involved.

The Tennessee Valley Authority is an illustration of an attempt to control private enterprise by setting up government competition. It is not, however, a clear-cut case, because government sponsorship of the TVA was defended largely on the ground that it was necessary for flood control. The production of power was, perhaps, secondary. In any case, the idea seems not to have been so much to provide direct competition with private companies as to set up a "yardstick" of costs. Some of the sponsors of the project thought that if the TVA could demonstrate that electric power could be produced at low costs, the public would demand that private companies lower their rates, and state regulatory bodies would have a basis for judging what reasonable costs of producing power should be. The validity of such a comparison would, of course, depend on whether or not the government cost figures included all the items of expense that a private company would have to meet. Some of the critics of the TVA say that in calculating costs it omits certain items which should be included.

There are those who believe that if we developed a strong consumers' cooperative movement in this country it would do a great deal to restore competition. The chief interest of a consumers' cooperative, no matter how large, is to increase the purchasing power of consumers by keeping down the cost of goods. If the cooperatives were powerful enough, they might themselves undertake the production of many commodities and so break down the

price-maintenance policies of private business. To a limited extent the Swedish cooperatives have been successful in doing this very thing. For example, by establishing their own factory, they broke the monopoly of the cartel¹ controlling electric-light bulbs, and brought about a great reduction in prices. In doing this sort of thing, they have contributed not only to an increase in consumer purchasing power, but also to the maintenance of employment and general prosperity.

Whenever monopoly exists and we are unable or unwilling to restore effective competition, it may be necessary in the public interest to resort to government regulation or outright government ownership. In this country municipal ownership of local utilities is not uncommon. However, in the case of our larger enterprises we have placed our reliance almost entirely on regulation. In the following pages we shall deal briefly with the history of our attempts to regulate industrial combinations, leaving the very important problem of public utilities to be dealt with in the next chapter.

Forms of Industrial Combinations, or Trusts. From the time of the Civil War to the present, in certain industries, the existence of relatively few firms and a national market has made monopolistic combinations possible. The principal forms which these combinations have taken may be distinguished as follows: (1) simple agreements; (2) pools; (3) trusts in the technical sense; (4) holding companies; (5) consolidations. To these might be added trade associations, for the trade association is sometimes used as an agency for effecting monopolistic agreements.

Simple agreements need no extended discussion. They may be open or secret, written or oral, or merely implied, as in the case where the firms in an industry have all adopted the policy of following the actions of a leader. The pool is a rather formal agreement intended to secure uniform action in limiting production and maintaining prices. It does this by allotting to each participant in advance a definite portion of the business to be done. Sometimes the allotment is a certain part of the agreed total output,

¹ A cartel is a form of business combination in which the member firms retain independence except as to prices and the amount of product produced. Each firm is allotted an agreed output, and they all sell through a common agent, or company, in which each has a proportionate interest. Cartels are common in Europe but illegal in this country.

sometimes a certain market area, sometimes a certain part of the total earnings. The nature of a holding company has already been explained, and the trust will be dealt with a little later. A consolidation is merely a large corporation which has absorbed the properties of a number of smaller companies. The original companies are dissolved and completely lose their identity.

Simple agreements have been and still remain one of the important means of monopolistic combination. They have the disadvantages of being temporary, unenforceable, and usually illegal; but if they are secret or merely implied it is generally impossible to prove their existence. In the earlier days of the combination movement, after the Civil War, pools were widely used. Later, however, they were abandoned, not only because they were unenforceable, but because they were made illegal by statute. Then came the trust, to be followed in turn by the holding company. Consolidation has, of course, been available from the beginning as a method of combination, but it often has disadvantages in comparison with other devices.

The technical meaning of the term "trust" should be carefully distinguished from the popular meaning. In the United States any monopolistic industrial combination of great size has commonly been called "a trust." Today the word is slowly disappearing from popular use, but at one time the trusts were the chief topic of discussion in political speeches, on the lecture platform, and in the newspapers and magazines. At its height, public antagonism to this form of big business was so strong that the most effective way of damning any enterprise was to hang the trust label on it.

In a legal sense a trust is merely a trust agreement, or trusteeship. The founders of the Standard Oil Trust, our first great industrial combination, decided that a trust agreement would be the most convenient way of bringing together a number of independent firms under one management. The first Standard Oil trust agreement was made in 1879, to be superseded by a more permanent one in 1882. The arrangement involved was very simple. The shares of stock or the properties of the combining firms were turned over to a board of nine trustees, with the result that this board had complete control of all the firms. The original owners received in exchange trust certificates which were transferable like shares of

stock. The Standard Oil Trust succeeded so well that other trusts were soon established.¹

About a dozen years later the trust was declared illegal as a form of business organization, and was replaced by other devices, but the word "trust" continued in general use, because by that time it had become the popular designation for any monopolistic combination.

Competitive Practices of the Trusts. The early trusts engaged in many practices which aroused strong public resentment. The Standard Oil Trust illustrates this well.² One of its favorite methods of eliminating competition was to sell below cost in a competing company's territory until the latter was forced out of business. Meanwhile the trust, whose operations covered the country, could make up the losses by charging monopoly prices in other areas. Another method it employed very effectively was to force the railroads to give it rebates which were not available to its competitors. Because it controlled a very large amount of freight, the mere threat of shifting all its traffic from one road to another was usually sufficient to gain concessions. Sometimes the trust found it difficult to put competitors out of business. In that case it usually succeeded in buying them out, if necessary, at high prices.

Other trusts employed similar methods of eliminating competition and devised additional ones. The American Tobacco Company, for example, to avoid the public ill will it had aroused through its monopolistic practices, set up dummy concerns which were represented as independents. These put out "fighting brands" of merchandise to "compete" with the trust. One of the best known of these fighting brands was the Battle Axe Plug chewing tobacco so popular just after the turn of the century.³ But whatever the method used to destroy competition, wherever it could be eliminated the public paid the bill several times over in high monopoly prices.

It is interesting to note that most of the unfair competitive practices of the trusts would either not be possible or not be re-

¹ Henry R. Seager and Charles R. Gulick, Jr., *Trust and Corporation Problems*, Harper & Brothers, New York, 1929. For a description of the Standard Oil Trust of 1882, see pp. 49-50.

² *Ibid.* For a review of the history and practices of the Standard Oil Trust see *ibid.*, Chap. 8.

³ *Ibid.* For a review of the history and early practices of the tobacco trust see *ibid.*, Chap. 10.

garded as unfair if competition were on equal terms among relatively small firms. Take price-cutting, for example. One of a number of small competing firms could not undersell its rivals to any advantage unless it were more efficient so that it could still make a profit. In this case, under pressure, some of its rivals would be likely to increase their efficiency too, and, if competition continued, the benefits would be passed on to the public in permanently lower prices. Only when one large firm is able to drive smaller competitors out of business by selling at a loss temporarily or locally and then recouping at public expense is price-cutting unfair and contrary to the public interest.

The Rise of the Antitrust Movement. Because the trusts and their methods were something new in the economic situation, there were no legal provisions to deal adequately with the problems which arose. Under the common law the principle had long been established that contracts in restraint of trade were unenforceable, though there were some exceptions to this where the restraint was "reasonable." But the common law had been developed to meet situations very different from those created by the activities of the trusts. While it made agreements in restraint of trade unenforceable, it did not make them criminal, and in no way interfered with them if they were carried out voluntarily. Moreover, it laid down no principles for dealing with industrial monopoly as such.

As has already been mentioned, the earliest attempts in this country to control monopolistic big business were aimed at the railroads. But up to 1887 when Congress passed the Interstate Commerce Act, relatively little attention had been given to industrial monopolies. However, the two-year Congressional investigation which preceded passage of this act brought to light much information concerning the character and tactics of industrial combinations, and this led to a widespread demand for antitrust legislation.

During the next few years bills forbidding combination were introduced in state legislatures all over the country; and by the time Congress passed the Sherman Act in 1890, about half the states had antitrust provisions in either their constitutions or their statutes. Among the purposes of state antitrust legislation were (1) to make positively illegal and criminal agreements to restrict trade, which under the common law were merely unenforceable,

(2) to forbid the creation of monopolies, and (3) to forbid specifically certain monopolistic practices like pooling, limitation of output, and price-fixing. But the problem of industrial monopolies could not be dealt with effectively by state action, for the activities of the great trusts covered the entire nation.

The Sherman Antitrust Act. In section 8, article 3 of the Constitution of the United States, Congress is given the power to regulate interstate and foreign commerce, and it is on this power that federal antitrust legislation is based.

The Sherman Act was passed under strong pressure of public opinion. Its principal provision is found in the first sentence of section 1: "Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several states, or with foreign nations, is hereby declared to be illegal." Section 1 also states that any person who shall make such a contract, or engage in such a combination or conspiracy, shall be fined not over \$5000, or imprisoned not over one year. Section 2 provides the same penalty for anyone who shall "monopolize" trade; and section 7 says that anyone injured by anything forbidden in the act may sue for triple damages.

There has been much difference of opinion as to the effectiveness of the Sherman Act. Its criminal provisions have never been enforced, except against a few labor leaders. And, certainly, it did not stop the combination movement. In the first decision under the act to be handed down by the United States Supreme Court (the *E. C. Knight* or *American Sugar Refinery* case, 1895), it was held that a combination of sugar refineries, even though it resulted in a virtual monopoly of the business, was not illegal. The argument was that, though a combination of manufacturers might indirectly tend to restrain interstate trade, this result was only incidental, and not within the meaning of the act. The effect of this decision was to convince big business that it had little to fear from the Sherman Act. And though the *Addyston Pipe* case (1899) somewhat modified this judgment by showing that in some cases the act could be enforced, in the years from 1897 to 1903, as already mentioned, more trusts were formed than in any similar period in our history.

Of course, the effectiveness of the antitrust laws depends to a great extent upon the energy with which the administration in power institutes and pushes prosecutions. After the *Sugar Refinery*

case, President Cleveland thought that control of trusts would have to be left to the states. And President McKinley, who succeeded him, made little attempt at enforcement because he was definitely favorable to big business. But with the accession of Theodore Roosevelt to the presidency, a period of more vigorous prosecution began.

Theodore Roosevelt's two administrations, 1901-1909, were the period of "muckraking" and "trust-busting." The term "muckraking" was applied by the president himself, perhaps somewhat unfairly, to the sensational exposures of the trusts which were filling the newspapers and magazines of the day.¹ Roosevelt's trust-busting campaign was more spectacular than effective. Nevertheless some progress was made. For one thing, a federal Bureau of Corporations was created whose chief function was to investigate large business organizations.² For another, a number of trust prosecutions were instituted, and some Supreme Court decisions rendered which seemed to strengthen the Sherman Act.

Under President Taft, antitrust prosecutions were even more vigorous, and in 1911 the famous Standard Oil decision was rendered. It was in this decision that the famous "rule of reason" was first laid down. Though the Sherman Act forbids restraint of trade with no qualifications, the majority opinion of the court held that Congress must have meant "unreasonable restraint"; and the oil trust was dissolved on the ground that it constituted such unreasonable restraint. When trust agreements were declared illegal, some years earlier, the Standard Oil combination had been changed to a holding company; and it was this organization, the Standard Oil Company of New Jersey, which was now ordered to dissolve.

However, when the dissolution took place, each stockholder in the New Jersey company received his pro rata share of the stock of the thirty-three subsidiaries. The result was that each of the former subsidiaries had identical stockholders, and that all were controlled by the same small group of men who had controlled the parent holding company. At the time this seemed to many people to render the decision meaningless. But as time has passed, and

¹ Harold U. Faulkner, *American Economic History*, Harper & Brothers, New York, 1935. A brief discussion of muckraking can be found on pp. 540-541.

² The Bureau of Corporations was created within the old Department of Commerce and Labor on February 14, 1903.

stock has changed hands through death and other causes, there has been a tendency for the Standard Oil group of companies to become more and more independent of one another.

The Clayton Act and the Federal Trade Commission Act.

When the Wilson administration took office in 1913 there was a strong demand for "putting more teeth" in the antitrust law. Many felt that the rule of reason weakened the Sherman Act, and that the Standard Oil decision was farcical. Also, there was a strong demand from labor for changes in the act which would protect the unions. Though it seems clear that the Sherman Act was aimed primarily at industrial combinations, in a number of decisions it had been successfully invoked against organized labor. The most famous case was that of the Danbury Hatters.¹

In 1914, to meet both these demands, two important measures were passed, the Clayton Act and the Federal Trade Commission Act. The Clayton Act was intended to do two things: (1) strengthen the Sherman Act, especially by forbidding a number of specific practices tending to lessen competition or create monopoly, and (2) exempt labor from the provisions of the Sherman Act. To some extent the first aim was achieved; but the second was not, because the courts interpreted the law in a way unfavorable to labor. The Federal Trade Commission Act was intended to provide a better administrative procedure for enforcing the antitrust laws, especially in respect to the control of unfair trade practices. It created the Federal Trade Commission and defined its powers and functions.

The Federal Trade Commission replaced the old Bureau of Corporations, but was given much wider powers. In addition to the function of investigating corporations subject to the antitrust laws, it has the power to issue "cease and desist" orders against illegal trade practices. If these orders are not obeyed, it may apply for action by the federal circuit courts of appeal.

Effect of the Antitrust Laws and the Federal Trade Commission. There is no way of estimating accurately the influence of the antitrust laws and the Federal Trade Commission because there is

¹ The Sherman Act forbids "every contract, combination in the form of trust or otherwise, or conspiracy" in restraint of interstate or foreign trade. While it makes no special mention of labor combinations, its language is broad enough to cover them. In the Danbury Hatters case the U. S. Supreme Court held that a boycott sponsored by the United Hatters' Union was a conspiracy in restraint of trade, and approved a judgment of over \$250,000 against the officers and members of the union.

no way of knowing just what the situation would have been without them. Though the Federal Trade Commission has received a great deal of abuse, and has certainly not accomplished all that might be wished, there seems to be no question that it has had a strong restraining influence upon both unfair trade practices and monopoly. On the other hand, antitrust legislation is frequently assumed to have been pretty much a failure.

This is probably a false assumption. The limitations of our anti-trust laws, as interpreted by the courts, are obvious. Nevertheless, it seems certain that they have exercised a tremendous influence on business. They were a warning that if public opinion were sufficiently aroused, stronger measures would follow. Moreover, they have enough teeth in them so that there is always the fear of successful prosecution. Without them monopolistic combination would probably have gone much farther in this country than it has.

Recent Trends in the Regulation of Large-Scale Business.

Events of the First World War pushed the trust problem into the background, and it never fully regained the public attention which it had once held. This was partly because so many other problems were pressing for attention, and partly because developments of the war and postwar period had changed the attitude of the people toward big business. First, the war had shown the advantages of unified control of some important industries, for example, the railroads. Second, the long period of antitrust agitation, and the expansion of government regulation, had induced a more cautious attitude on the part of business leaders. The "public-be-damned" point of view had disappeared, and more than ever before business formulated its policies with an eye on public opinion. Third, the eleven years immediately following the war were, with one or two short interruptions, a period of unprecedented prosperity, and this encouraged a laissez-faire policy toward big business.

The Webb-Pomerene Act. One of the first results of the more tolerant attitude toward combinations was the passage of the Webb-Pomerene Act in 1918. This measure was designed to meet the contention that American businessmen, because of the prohibition of combinations, were at a disadvantage in competing in the export market with foreign cartels. It largely exempted from the provisions of the antitrust laws combinations for carrying on export trade.

The Steel Decision. In 1920 the United States Supreme Court rendered its decision in the dissolution suit against the United States Steel Corporation. This famous case had been opened in the Taft administration, long before the passage of the Clayton Act. Various factors, including the war, had delayed final court action. The effect of the decision was a weakening of the antitrust laws. The court applied the rule of reason, and held that it would not be in the public interest to dissolve the corporation, in spite of fairly clear evidence that the company had cooperated with others in monopolistic practices. Apparently, also, the court was somewhat influenced by the argument that, because the company did not produce quite half of the country's steel, it was not a monopoly.

Revival of the Trend toward Monopoly. During the 'twenties there was no vigorous attempt to enforce the antitrust laws. In fact, there was a definite revival of the combination movement. This was a result not only of public indifference, but of the fact that the Harding, Coolidge, and Hoover administrations were all definitely favorable to big business.

With the coming of the depression one might have expected a revival of antitrust sentiment, but the contrary was actually the case. Many people, especially businessmen, were convinced that the antitrust laws were an obstacle to recovery. They thought that if business firms were allowed to "cooperate" to control prices and production, the problems of the depression could be solved. Partly as a result of this belief the National Industrial Recovery Act was passed, permitting each industry to establish a "code" to bind all members. Though the United States Supreme Court finally declared the act invalid, during the short period of its operation it did a good deal to encourage price-fixing and other monopolistic practices.

The Robinson-Patman and Miller-Tydings Acts. Two rather recent measures that should be mentioned are the Robinson-Patman Act (1936) and the Miller-Tydings Act (1937). Both were intended to protect the interests of the small merchant against the encroachments of the chain stores and mail-order houses.

The Robinson-Patman Act limits the amount of price reduction given for large orders as against small ones to "due allowance for differences in the cost of manufacture, sale, or delivery," and under certain circumstances permits the Federal Trade Commission to fix

arbitrary limits on such price concessions.¹ Insofar as this act prevents large buyers from using their concentrated purchasing power as a bludgeon to exact otherwise unwarranted price reductions from manufacturers, it is highly commendable. If, however, it should be so administered as to prevent large buyers from getting the benefit of genuine economies which manufacturers effect by selling in quantities, its effect will be to protect uneconomic small merchandising units at the expense of the consumer.

The Miller-Tydings Act is designed to permit manufacturers to fix the resale price of their products. Formerly resale price-fixing agreements were illegal. A change in their status was desired not only by small retailers but by many manufacturers. Ostensibly the thing desired was to prevent the chains from selling well-known trade-marked products at below cost as "loss leaders." The manufacturers felt that this damaged the reputation of their products; the small merchants, that it was unfair competition. However, from the standpoint of the consumer the act is highly undesirable, because its most important effect is to protect needlessly wide margins between wholesale and retail prices. The consumer's defense, of course, is to buy cheaper brands, like those put out by the chains themselves. Many of the states now have their own statutes similar to the Miller-Tydings Act.

The TNEC and the New Attack on Monopoly. In the last few years there has been developing among students of economic problems a deeper understanding of the part which monopoly and price controls played in bringing on the great depression and retarding recovery. Recently, too, this aspect of monopoly has been receiving more public attention. Partly responsible for this have been the Report of the Temporary National Economic Committee (TNEC) and the new antimonopoly campaign led by Assistant Attorney General Thurman Arnold.²

The TNEC was created by a joint resolution of Congress June 16, 1938. This action followed a message from President Franklin D. Roosevelt calling attention to the need for a thorough study of the concentration of economic power, and its injurious effects on the

¹ Myron W. Watkins, *Public Regulation of Competitive Practices in Business Enterprise*, National Industrial Conference Board, New York, 1940, p. 49.

² See Thurman Arnold, *The Bottlenecks of Business*, Reynal & Hitchcock, Inc., New York, 1940.

American system of free enterprise. The findings of the committee have been published in extensive reports. In general, its conclusions were as follows: The economic freedom of individuals is restrained and sometimes suppressed by large organizations against which they cannot protect themselves. This brings a demand for the constant expansion of government controls. Such controls, however, are unsatisfactory in themselves and tend to bring about an undesirable concentration of political power. A much better alternative would be to stop the concentration of economic power. To this end the government should do two things: (1) enforce the antitrust laws and (2) develop positive programs to encourage and protect the growth of new private enterprise.

Big Business and the Future of Free Enterprise. Our economic order is based on the principle of free enterprise. Within certain limits, anyone who has enough capital can go into any business he pleases and operate it as he sees fit. In other words, free enterprise (capitalism) means private ownership and control of business. Socialism, on the other hand, means ownership and operation of business by the government, or some other group presumed to represent the public interest.

Unquestionably, both monopoly and great size in business create pressure for socialization of industry. When business is carried on by many small competitors, what any one of them does is not a matter of much public importance, and they can be allowed to do pretty much as they please. But when the prosperity of a city or a nation depends largely on the operations of a few great corporations, their policies and management become vital matters of public concern. Moreover, it is much easier for the government to undertake either the regulation or the operation of a few great businesses than of many small ones. Business itself, in other words, by organizing into very large units is paving the way for socialization. That this is true is apparent from a study of what has happened in Germany and Italy in recent years.

In our country there is still a considerable amount of freedom even for large-scale private business, but the trend of the times seems to indicate that this is likely to grow less and less with each succeeding crisis of depression or war. It is, then, a very vital question whether free enterprise can survive in America. Many economists think that it can do so only if the trend toward super-

corporations can be checked and if competition can be preserved in large areas of our economic life. They believe that if the tendency toward bigness and monopoly continues without interruption, it will inevitably lead to some form of state socialism.

TERMS TO BE UNDERSTOOD

monopoly	muckraking
joint-stock company	unfair competition
trust	rule of reason
holding company	fighting brand
proxy	loss leader
tacit cooperation	general incorporation act
gentlemen's agreement	optimum size
implied agreement	division of labor
pool	laissez-faire
consolidation	free enterprise
interlocking directorates	

QUESTIONS FOR DISCUSSION

1. Explain why big business has had such a growth in the United States in the last seventy-five years.
2. To what extent does big business control American industry today?
3. Is it entirely true that the bigger a business the more cheaply it can produce goods and services? Explain.
4. What seem to you the most serious problems created by big business?
5. Explain the relation of great size to monopoly.
6. What are the social effects of monopoly?
7. How is the monopoly problem today different in nature from what it was before machine technology reached an advanced stage?
8. To what extent, in your opinion, can business competition be preserved? By what methods?
9. Describe the principal types of industrial combinations.
10. Account for the rise of the antitrust movement.
11. What were the purposes of the Sherman Antitrust Act? What were its weaknesses?
12. State the chief purpose or purposes of each of the following: the Clayton Act; the Federal Trade Commission Act; the Webb-Pomerene Act; the Robinson-Patman Act; the Miller-Tydings Act.
13. What, on the whole, have been the effects of the antitrust laws?
14. What has been the result of attempts to regulate unfair trade practices?
15. In what ways does the growth of large-scale business create a trend toward socialism? Can this trend be checked?

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PUBLIC UTILITIES AND THEIR CONTROL

In Chap. XVI on Business Organization it was pointed out how various types of business have developed to satisfy the many needs of man and society. Some cater to necessities of life while others provide luxuries. Some operate under conditions of more or less free competition while others operate under conditions of monopoly or partial monopoly. As long as the public is provided with the goods and services it needs regularly and at a reasonable price there seems to be little concern regarding the nature of the industries and the conditions under which they operate. It is only when the public is dissatisfied with the manner in which necessary goods and services are being provided that interference with the operation of a particular industry is likely to ensue. In the main it is the industries in which conditions of monopoly exist that are subjected to government regulation, and it is with these so-called public utilities that this chapter will be concerned.¹

THE NATURE OF PUBLIC UTILITIES

Industries Included. It is not easy to draw up a complete list of public-utility industries, for the items vary from time to time and from place to place. Generally included in this category are electric light and power, gas, water, telephone and telegraph, local transport agencies, railroads, aviation, baggage transfer, express, ferries, water carriers, wharves, stockyards, freight terminals, warehouses, pipe lines, sleeping cars, motor trucks and busses, cables, and radios.² This list is not exhaustive, and undoubtedly other industries will be included in this category in the future.

¹ It is necessary to distinguish between public utilities and public enterprises. The former are owned by private individuals while the latter are publicly owned. Since the conditions under which they are operated and controlled are essentially different they are accorded separate treatment. A section on public enterprise follows the discussion of public utilities.

² Railroads and other transport agencies are given a more detailed treatment in later sections of this chapter.

Legal Basis of Classification. Various reasons account for the fact that certain industries are classified as public utilities. For the most part the classification is the result of law or court opinions. While certain industries, such as common carriers, have long been considered public utilities and hence subject to government regulation, it has taken specific court decisions, especially United States Supreme Court decisions, to decide which particular industries should thus be classified.

It is interesting to note how this legal determination began in this country. When the farmers in the Granger states ¹ found that they were not able to secure satisfactory services at reasonable costs from railroads, warehouses, and other industries, they proceeded to enact state legislation to regulate their activities. The industries immediately appealed to the courts, claiming that action by the state legislatures or their regulatory commissions was depriving them of their property without due process of law, which was prohibited by the Fourteenth Amendment to the Constitution. The Supreme Court ruled that these corporations were persons and hence their property could not be confiscated without due process of law. But the court also held that these industries were subject to regulation because of their peculiar status in the community. If it could be shown that the industry from both an economic and legal viewpoint could be considered a public service, and that the property devoted to the performance of these services is clothed with, or affected with, a public interest, then the industry was subject to government regulation.

The court quoted Chief Justice Hale of England, who declared that "private property becomes clothed with public interest when used in a manner to make it of public consequence and to affect the community at large."² This means that the services are regarded as vitally necessary for the health, safety, and convenience of the public. The satisfactory servicing of basic economic needs of contemporary society depends in large measure upon the adequacy and economy of essential public-utility services. Professor Glaeser has observed that our public-utility industries, "socially, politically and economically considered . . . are the *sine qua non* of gregarious life."³

¹ The middle western states where the Granger movement gained strength.

² Quoted in *Munn v. Illinois*, 94 U. S. 113 (1876).

³ M. G. Glaeser, *Outlines of Public Utility Economics*, The Macmillan Company, New York, 1927, p. 2.

Monopolistic Tendencies. While it is true that the industries classified as public utilities provide necessary services to the public, this alone does not explain why they are subject to government regulation. Certainly the milk industry is as important as a local trolley company, yet the milk industry is not subject to the same regulation. Nor can one say that hospitals and doctors provide a service less necessary to the public health and welfare than many other industries which are regulated as public utilities. It would seem that the tendency toward monopoly, or the greater social economy and economic efficiency of monopoly, are basic to an explanation of the public-utility classification.

The public is concerned chiefly with necessary goods and services, and it is only when the public interest is adversely affected because of monopoly in such necessary industries that regulation is enforced. Public supervision is required to see that the public secures the benefits which monopoly offers. In fact society deliberately encourages monopoly in these industries because it is superior to competition. Thus it would be wasteful to permit several competing trolley companies to operate separate tracks on the same street. A single company, properly regulated, can provide a much more efficient service to the public.

Legal Bases of Operation. *The Franchise.* Most utilities depend for their right to operate upon favors or privileges granted them by government. The streets in a city are owned by the city, and the trolley company must ask and receive from the city the right to use the streets. Electric, gas, and water companies also must use the streets or the space above or below them for the installation of their services, chiefly because of the nature of the equipment they employ.

The right to use the public streets for such purposes is granted by the issuance of franchises. Very often these franchises are exclusive, thus precluding competition. This in reality creates a legal monopoly. It can be seen, however, that in the case of most utilities such monopolies are in the public interest. A single telephone company can give a much more complete service than a number of competing firms.

Special Privileges. Another valuable right often included in franchises is the sovereign right of eminent domain. This right belongs to government, but it is sometimes transferred to private

industries which are affected with a public interest. Under this power the utility can secure the right of way over property by paying a fair price. If the utility needs a piece of property for its business, it first attempts to buy it privately. If the owner refuses to sell, or if he demands an excessive price because he knows the utility needs his property, the utility may enter condemnation proceedings. When property is thus condemned, a court establishes a fair price for it, and the owner must accept this price and deliver his property to the utility.

Another feature, which is a characteristic of monopoly, is the permission to sell the service at different prices to different consumers. For example, electric light and power companies are permitted to charge rates which are lower than domestic rates for the industrial use of the same power. In industry the energy is used chiefly as motive power, whereas domestic users use it chiefly for lighting. Even for the individual user differential rates are used. For example, the rates for certain "blocks" of electricity go down as more is used; the first block is charged at the rate of about 5 cents per kilowatt hour in Chicago, for instance, and the rate goes down to about 2.5 cents as additional blocks are used. Railroads have a regular rate-classification system whereby different commodities get the same transport service at different prices.

Ownership. Public utilities are corporations doing business just like other corporations. The owners are the stockholders, who in most cases own only a few shares of stock. Some of the larger utilities, like the American Telephone and Telegraph Company, have hundreds of thousands of stockholders. As in the case of other corporations, the public utilities are organized to make profits for their owners. However, because of their special legal standing, public utilities are not expected to earn abnormal profits. People investing in public-utility stocks are supposed to be satisfied with a moderate return. As will be shown later, however, the public utilities in this country have been among the most profitable of all industries. Because of this fact financiers in the 1920's built immense utility empires in order to take advantage of these profits. Many of these financial deals, while not strictly illegal, were based on false hopes and promises, if not on outright fraud, with the result that investors lost hundreds of millions of dollars on their utility investments. These developments, which centered around the

holding companies, will be explained in more detail in a later section of this chapter.

PUBLIC OBLIGATIONS OF PUBLIC UTILITIES

In return for the valuable privileges accorded in their franchises, . . . those within the public-service category must assume the obligation of serving all who apply within the limits of profitableness, of providing service which meets the requirements of adequacy in quantity and quality, of serving at reasonable rates, and of avoiding unjustly discriminatory practices in rates and services.¹

Extending Services. The public-utility services we now possess were developed largely on the initiative of the private companies. In their search for profits they extended their services into those areas which promised to be profitable. Sometimes the anticipated business did not materialize, with disastrous results for all concerned. With an expanding population and growing industry and trade, it was not too difficult to make profitable extensions of service. But the optimism of the early period of development led to some gross miscalculations. Thousands of miles of railroad have never been able to show a profit in their operation.

Since the private monopoly is the judge of profitableness it may be unwilling to run the risk on new extensions of service; it may be content with its current volume of business and profits. Moreover, since the courts have upheld the right of the utilities to a fair return on their investment, to compel them to offer a service at a loss would deprive them of their property without due process of law, which is forbidden by the Constitution.

On the other hand, managerial inertia may prevent the extension of services for which a reasonable prospect of profit exists. In view of their relation to the public, many utilities have been ordered by state regulatory bodies to make certain extensions of service, at least for an experimental period. There are many cases of residents in an unserved area petitioning the regulatory agency for an order to compel the utility to provide them with service. In recent years this has been true especially with bus lines. The failure of the electric companies to extend service to rural areas was responsible for the growth and development of the Rural Electrification Admin-

¹James K. Hall, "Regulation of Public Utilities," *The Annals of the American Academy of Political and Social Science*, 206: 92, Nov., 1939.

istration, described below, which renders service on a cost rather than profit basis.

Serving at Reasonable Rates.

The obligation of charging just and reasonable rates is an obligation to charge rates not above a maximum point set by the value of the service to the user and not below a minimum point set by the cost of producing the service. Within the zone between these two lies the area of reasonableness. Practically, therefore, a just and reasonable rate is one that returns to the utility an amount equal to, and usually greater than, the cost of producing the service, and that provides the users a service at an amount not more than, and usually less than, the value of the service.¹

This statement may indicate that it would be relatively simple to determine what are reasonable rates. As a matter of fact there may be a sizable difference between the maximum and minimum possible rates. No question has been more troublesome in utility regulation in the last fifty years than the problem of reasonable rates. In general it is safe to say that the utilities' notion of reasonable rates has been substantially higher than what the regulating commissions have thought to be reasonable. Countless court decisions have been made on this point, and it is not settled yet. In a later section this problem will be dealt with more in detail.

Avoiding Unjust Discrimination. Besides insisting upon reasonable rates, the public expects utilities not to engage in discriminatory practices against individual consumers either in the rates charged or the services rendered.

This concept of a reasonable rate implies that all customers are treated equitably and that no service or class of customers is required to contribute more than its share of the cost of the service. A nondiscriminatory rate is thus one that assesses the costs of production among customers in proportion to their responsibility for them and that, therefore, places no greater burden on one customer than it places upon another. Variations or differences in rates based upon differences in cost of service or conditions under which the service is supplied do not constitute unjust discriminations. The essential feature of unjust discrimination is that a burden is placed upon one customer or a class of customers, or a preference is given to one customer or class of customers whether by failure to assess equitably and proportionately the costs incurred in producing the service or by arbitrary action.²

¹ G. Lloyd Wilson, J. M. Herring, and R. B. Eutsler, *Public Utility Regulation*, McGraw-Hill Book Company, Inc., New York, 1938, p. 95.

² *Ibid.*, p. 96.

Discriminatory practices may be understood in terms of the nature of public utility industries. It is to the advantage of a utility to make full use of its heavy equipment, and one way to increase the demand for a service is to offer inducements in the form of lower rates or special added services. The temptation is always present to use discriminatory rates, but it must be said that, while it still exists today, it is not nearly so serious as it was in the past, especially before state and local regulation became effective. Most utilities avoid this practice today, but it takes the ever watchful eye of a regulatory commission to hold it down to a minimum.

THE REGULATION OF PUBLIC UTILITIES

Development of Regulation. Modern public-service commissions have developed, since 1907, in Wisconsin; but commissions as agencies of regulation are much older, some having been established quite early as adjuncts of legislative regulation of the railroads. The first of these was established in Rhode Island, which created a railroad commission in 1839.¹ These early railroad commissions were of the advisory type, being for the most part fact-finding branches of the legislatures with no administrative powers. In regard to rates, about all they did was to see that the railroads did not charge higher rates than were prescribed in their charters.

Up to the Civil War this type of regulation seemed to be satisfactory; but after the war there developed a marked change in the attitude of the public toward the railroads, largely because of the abuses which had developed and because of the predatory activities of certain financial interests. Public dissatisfaction became so great that in the Middle West the state legislatures, backed by the Grangers and other groups, enacted strict forms of legislation for the railroads and created regulatory commissions. The railroads naturally contested these laws and the regulations of the commissions, but the Supreme Court in the Granger cases upheld the right of the states to regulate industries which affected the public interest, and it has confirmed and expanded this doctrine ever since.²

Prior to 1907 few commissions, either state or local, were established with jurisdiction over utilities other than railroads; but fol-

¹G. Lloyd Wilson, J. M. Herring, and R. B. Eutsler, *Public Utility Regulation*, McGraw-Hill Book Company, Inc., New York, 1938, p. 13.

²*Munn v. Illinois*, 94 U. S. 113 (1876), and other cases.

lowing the state investigation of utilities in New York in 1902-1903 and the subsequent creation of two utility commissions with broad mandatory powers in 1907, other states established similar agencies to regulate their public utilities. Today every state except Delaware has such a commission.

The Regulation of Rates. The powers of these regulatory commissions vary from state to state, but in general they include the regulation of rates and fares, extensions and abandonments of service, the issuance of securities, the prevention of discrimination between different customers and classes of customers, the quality of the service, the valuation of utility properties, and accounting methods. Of all these many powers, the most difficult to administer and the most important, from the point of view of both the public and the utilities, is the regulation of rates.

It was pointed out above that there are sound economic arguments for permitting monopolies in the public-utility field, but without such regulatory bodies the public would not receive the benefits of these monopolies and would be at the mercy of the public utilities. In the beginning the legislatures felt that competition would keep rates at a fair level, but it was discovered that competition soon ceased and excessive rates were being charged. The states then proceeded to regulate the rates, especially of railroads, either by direct legislation or by establishing appropriate commissions. At first the courts did nothing, but eventually they were forced to act because the commissions began forcing rates too low. The utilities contested such action in the courts, and finally in the famous case of *Smyth v. Ames*, decided in 1898, the Supreme Court of the United States declared that the constitutional rights and guarantees of utility corporations must be protected. The court said:

The duty rests upon all courts, federal and state, when their jurisdiction is properly invoked, to see that no right secured by the supreme law of the land is impaired or destroyed by legislation.¹

The court here had reference to depriving a person (in this case a corporation) of his property without due process of law. This is contrary to the Fifth and Fourteenth Amendments to the Constitution. If the state reduced rates and fares so low that the utility could not earn a fair return, its property would in effect be con-

¹ 169 U. S. 466, pp. 527-528.

fiscated, and this, of course, would have to be prevented by the courts. The decision stated further:

We hold that the basis of all calculations as to the reasonableness of rates to be charged by a corporation maintaining a highway under legislative sanction must be the fair value of the property being used by it for the convenience of the public. . . . What the company is entitled to ask is a fair return upon the value of that which it employs for the public convenience.¹

From this decision was derived the "fair return on the fair value of the property" concept. This concept has been the basis of utility valuation since that time,² and it has plagued both the commissions and the courts.

Fair Rate of Return. It might appear simple to the layman to apply this rule. For example, if the fair value of a utility's property were \$10,000,000 and a fair return were 6 per cent, then the rates should be so fixed as to give the utility a net return of \$600,000, which is 6 per cent of \$10,000,000. In actual practice, however, it has not been possible to say just what percentage is a fair return. In various decisions the Supreme Court has held that returns varying from $4\frac{1}{2}$ per cent to over 7 per cent were necessary in order to prevent confiscation. In recent years the Supreme Court has tended to approve lower returns as being nonconfiscatory, in view of the general reduction in interest or profits received by similar enterprises.

Fair Value of Property. The most difficult aspect of this concept has been the determination of what constitutes a fair value of the property. The problem here is essentially different from finding the value of an ordinary piece of property or of a private factory, building, or home. We know, for example, that if the net rent on a home is \$400 per year and the current rate of interest is 5 per cent, then the value of the home is \$8000. It is on this basis that we estimate the value of stocks and bonds. If a bond yields a return of \$7.50 per year and the current rate of interest is 5 per cent, then that bond will have a market value of \$150, or \$100 for each \$5.00

¹ 169 U. S. 466, pp. 546-547.

² This concept was modified in its application to railroads by the Transportation Act of 1920. The fair-value doctrine was abandoned entirely in its application to railroads by the Act of 1933. The doctrine remains in force as applied to other utilities, but even here the regulatory commissions are avoiding as far as possible reference to this doctrine. Other bases of rate control are developing.

return. In other words, it is the current earning power which determines the value.

This basis of valuation is not applicable to utilities, however, because their earnings are the result of existing rates which have been prescribed by the commissions; hence, the basing of value on earnings involves circular reasoning and cannot be used. How else may the value of a utility's property be fixed? In the *Smyth v. Ames* decision the court mentioned, among other things, that the original cost of the property and the cost of reproducing the property should be considered in arriving at a fair value of the property. These two bases for valuation and rate making have since been used, and in numerous cases the courts have held that both must be considered. Which of these is to be used is highly important.

Some of the difficulties of using the original cost basis are that (1) inadequate records may have been kept of the original cost; (2) the original cost may have been excessive because of fraud, stock manipulation, or poor management; (3) the utility may have been built during a period of excessively high or extremely low prices. Difficulties with the reproduction cost basis are: (1) what would be reproduced — the original property, or the same capacity unit? Under improved technology a much cheaper plant might provide the same service as a more expensive older plant. (2) Many elements of a utility's total property would never need to be reproduced, such as the right of way. (3) Every time the price level changed, the valuation would have to be changed; this would mean forever changing rates. The position of the utilities and the commissions has been largely opportunistic. When the original cost was higher than the reproduction cost, the utilities argued for the original cost; and when the reverse was true, they argued for the reproduction cost.

New Developments in Rate Regulation. The regulation of utilities which were wholly intrastate in character was left to the state legislatures or state regulatory commissions. This regulation has not been very effective, for a variety of reasons. In recent years an important obstacle to effective regulation by the states was the interstate character of most of the utilities. Federal regulation of rates for interstate utilities other than transportation did not exist until recent years. Holding companies and interlocking directorates complicated the problem considerably.

The Federal Power Commission, which now has control over the wholesale rates of power and gas moving in interstate commerce, declared that

The story of utility regulation . . . has been in the main a story of increasingly elaborate and protracted procedures devised by representatives of private companies to delay or circumvent the efforts of regulatory bodies to achieve these objectives. The reason for this appears obvious. Having obtained a status substantially free from competition, these companies now seek, by the establishment of elaborate techniques, to regain the arbitrary control of costs and rates which would be theirs under unregulated monopoly.¹

The Federal Power Commission has found the following measures to be more effective in regulating the rates of utilities subject to its jurisdiction than the old fair-value doctrine:

1. The insistence on a prudent investment base.
2. The insistence on the deduction of an adequate depreciation reserve from cost of property with resultant lowering of rate base.
3. The use of the technique of ordering immediate rate reductions where justified before completion of the usually extended hearings.
4. The immediate removal of discrimination by requiring that the consumers of a given class be given the lowest rate available to any consumer of the class.²

The fourth procedure has proved to be very effective in bringing reductions in rates. In the Otter Tail Power Company case, involving discrimination in the wholesale rates charged various small municipal customers, the Commission effectively maintained the principle that the reasonable wholesale rate for all customers in a given class of service could not be higher than the lowest rate charged by the company to any customer in that class. The company in such cases must prove that different rates for the same service are justified — a very difficult task, indeed. Such activity on the part of the Commission has had the effect of leveling rates to that of the lowest existing rate for each class of service.

Another effective method of forcing the companies to reduce rates is to compel them to justify rates and costs of operation which are

¹ Federal Power Commission, *Twentieth Annual Report*, Washington, D. C., 1940, p. 13.

² *Ibid.*, p. 62.

much higher than rates and costs in near-by comparable plants. Where such differentials cannot be supported by evidence, rates are lowered. The following comparative tables will show the great variation in rates and costs which the Commission has found by an examination of the records submitted by the utilities themselves.

TABLE XLIV

TYPICAL RESIDENTIAL BILLS FOR ELECTRIC CURRENT, CITIES OF 50,000 POPULATION AND MORE, JAN. 1, 1941. 100 KILOWATT HOURS PER MONTH¹

<i>Lowest Bills</i>		<i>Highest Bills</i>	
*Tacoma, Wash.	\$1.70	Atlantic City, N. J.	\$4.98
Madison, Wis.	\$2.60	Allentown, Pa.	\$5.04
Washington, D. C.	\$2.61	Mount Vernon, N. Y.	\$5.20
*Cleveland, Ohio.	\$2.65	Lawrence, Mass.	\$5.28
*Lansing, Mich.	\$2.70	Tampa, Fla.	\$5.54
Birmingham, Ala.	\$2.75	St. Petersburg, Fla.	\$6.08

* Publicly owned utility.

TABLE XLV

COMPARATIVE DISTRIBUTION AND BUSINESS EXPENSES OF TWO ELECTRIC UTILITY COMPANIES²

<i>Expenses</i>	<i>Company A</i>		<i>Company B</i>	
	<i>Total</i>	<i>Per Customer</i>	<i>Total</i>	<i>Per Customer</i>
Distribution, operation, and maintenance	\$716,000	\$5.50	\$1,542,000	\$10.50
Customer accounting and collection	241,000	1.85	720,000	4.90
Sales promotion	87,000	0.65	257,000	1.75
Administrative and general	330,000	2.50	1,024,000	7.00
Total	\$1,374,000	\$10.50	\$3,543,000	\$24.10

Table XLIV compares typical monthly electric bills in comparable cities and shows the great variations that exist. It is worthy of note that the low cost cities had both publicly and privately owned

¹ Federal Power Commission, *Twentieth Annual Report*, Washington, D. C., 1940, p. 84. Adaptation of table.

² Federal Power Commission, *Twentieth Annual Report*, Washington, D. C., 1940, p. 87.

companies, while the high cost cities had only privately owned utilities. On the basis of the obviously wide variations in rates, some of the high cost utilities were asked to justify their high rates, with the result that in some cases rates were reduced.

The regular collection of apparently dry statistics by the Commission has led to another method of comparison, as shown in Table XLV. The Commission has made detailed studies of the various items of cost in the operation of the utilities, and has found marked differences where the conditions of operation were not substantially different. Many utility managers were unaware of their excessive cost of operation until they were shown the comparative figures for plants operating under similar conditions. In such situations the Commission has asked for rate reductions in line with the facts discovered. This comparative cost method of rate making is thus far extralegal, in the sense that it has not yet been approved by the Supreme Court. It is felt, however, that if such cases were prepared carefully this new principle of rate making might survive the scrutiny of the Supreme Court.

THE HOLDING COMPANY PROBLEM

Holding companies are to be found in many industries, but they are of special significance in public utilities. They reached their highest stage of development in this field, and, as was discovered in investigations after the collapse of several billion-dollar utility empires, it was in this field that the worst abuses in the use of the holding company were unearthed. Not only were these companies mismanaged to the detriment of investors, stockholders, and the public, but they made the task of the state regulatory commissions almost impossible. Since they were not public utilities they were not subject to state regulation. But they were so closely interconnected with the public utilities that government regulation was necessary for the holding companies. Most of these companies controlled properties in many different states, thus subjecting them to regulation by the federal government.

The Nature of the Holding Company. A holding company is a company which is not directly engaged in producing and distributing commodities or services but which controls such operating companies through the ownership of stock. The operating companies are those directly engaged in producing the services. The

holding company device is related to the trustee device ¹ which was used to build up trusts (monopolies) during the last quarter of the nineteenth century. When the trustee device was outlawed by the Supreme Court the financiers simply organized holding companies to perpetuate their control over their original industrial empires. Thus today the American Telephone and Telegraph Company and the United States Steel Company are holding companies. They are the topmost units of a large number of companies which are controlled by the ownership of voting stock by the holding company.

It was relatively simple to organize a holding company. Let us assume there were ten separate electric companies servicing ten districts in a large city or metropolitan area. A utility financier decided that it would be profitable to organize these units into a single unit. He organized a new corporation, say the Public Service Corporation, and issued securities to the public. Since the financier was likely to be a highly respected businessman with good credit standing, the public eagerly bought up his offer. With the money thus secured from the public, plus some of his own funds in some cases, the financier bought up a controlling share of the voting stock in each of the ten operating companies, usually the common stock. Through this control the financier was able to dictate the policies of the operating companies, and, as the chief holder of their common stock, was in a position to reap considerable financial benefit. It was the generous size of these profits, made possible in part by court "guarantees" of a fair return, and in part by a sharp rise in business and income, that motivated the organization of holding companies. Such a company is known as a "first-degree" holding company, being once removed from the basic operating companies.

It is said that such a holding company could do a more efficient job than ten smaller operating companies. With a unified control could come centralized buying in large quantities, a reduction in the amount of idle capacity, better professional and managerial services, and many other advantages. While the possibilities for such advantages existed, they did not always materialize. It appears that there was more profit to be made by organizing new holding companies than in providing basic services to the consuming public.

¹ See Chap. XXVI on Large-Scale Business Enterprise.

Not content with a unit in which physical integration was possible, the utility financiers spread out over the entire country in their search for new companies to buy. So eager were they to build bigger units that they bid up the prices of these companies to fantastic heights. This was an important factor in the unhealthy rise in the general securities market in the late twenties. The lure of profits was so strong that holding companies were organized to control other holding companies, with the result that some of these were six or seven times removed (seventh-degree holding companies) from the basic operating companies. At each successive level of control, domination was secured by ownership of the voting stock of the underlying companies.¹

The following example, which is by no means extreme, illustrates the confusion found in the holding company structure:

Out in Oregon, you find a little company called the Yawhill Electric Company. It belongs to the Portland General Electric Company. But the Portland Company belongs to the Pacific Northwest Public Service Company. This might be thought to be the parent organization. It controls the public utilities of Portland, the gas company in Seattle, and street railways and other utility companies in various towns. But this is not the end of the maze. The last-named company belongs to the Central Public *Service* Corporation, which owns other utility systems in Delaware, Maryland, and Virginia. And that in turn belongs to the Central Public *Utility* Corporation, which owns various other holding companies, with utilities and other sorts of enterprises from Maine to Oregon.

But this is still not the end. The Central Public *Utility* Corporation is held by a super-holding company called the Central Public *Service Company*. Why the little Yawhill Electric Company in Oregon, the Tri-City Gas Company in Alabama, the Bridgewater Electric Company in Maine, and the Lower St. Lawrence Power Company in the Province of Quebec, plus a maze of companies (including the Compagnie d'Elairage Electrique in Haiti) in a dozen or more states should all be huddled in this same holding company nest, no one can explain. And the interests which support these weird structures are powerful. Nothing short of action by the federal government and plenary power in the agencies entrusted with the job can clean up such situations.²

Holding Company Abuses. The prospects for profit in these companies were so inviting as to be virtually irresistible. It is natural to expect abuses to have arisen under such conditions. One

¹ Some holding companies embraced many diverse utility services plus a great variety of non-utility businesses, all without rime or reason.

² J. T. Flynn and P. H. Gadsden, "The Holding Company Bill," *Forum and Century*, XCIII: 259-265, 1935; quoted in Paul F. Gemmill and Ralph H. Blodgett, *Current Economic Problems*, Harper and Brothers, New York, 1939, pp. 598-599.

of the worst abuses was overcapitalization, or stock watering. If the ten operating companies to be integrated had a total valuation of \$10,000,000, financiers would often issue securities in the new company to several times this amount. In the wild orgy of stock speculation that existed, it was not difficult to dispose of these securities. People bought securities without even asking in what business the company was engaged. As holding company was pyramided on holding company, the stock watering increased proportionately. As long as the operating companies made large profits, these profits were siphoned upwards to pay the interest and dividends on the overcapitalized securities. But when the earnings of the operating companies dwindled, as a result of a decline in business during the depression and a reduction in rates ordered by the regulatory bodies, there were not sufficient funds to support this top-heavy structure. Since the earnings of the basic operating companies were the chief asset of the holding companies, no earnings below meant no income above. The result was the utter collapse of many of the holding companies, with ruination to the millions of investors who purchased securities.

Another abuse, which made more difficult the task of regulation and which cost the consumers dearly, was the padding of the expense accounts of the underlying companies by the top holding companies. Since these "expenses" were part of the cost of doing business, they were passed on to the consumers in the form of higher rates. Those in control of the holding companies organized various "service" corporations, and then offered these services to the underlying companies at their own figures, since they controlled them. By such devices the expense accounts were greatly increased without any substantial benefits being conferred. Moreover, since the holding companies were not public utilities, and since they were mostly out-of-state, they were beyond the control of the state commissions. Only the Federal government could control such interstate organizations, and the Federal government did enact legislation to bring them under control.

The Public Utility Act of 1935. The new administration that came into power in 1933 felt that the conditions uncovered after the collapse of several utility empires needed correction. Accordingly, the Wheeler-Rayburn Public Utility Act of 1935 (better known as the Public Utility Holding Company Act) was enacted.

The original draft of this law would have abolished practically all holding companies after 1942; but as finally passed, it provided that utility holding companies with interstate relations and activities must register with the Securities and Exchange Commission, and that they must be simplified into integrated utility systems. The continuance of holding companies above the second degree was also forbidden:

The Federal Public Utility Holding Company Act was passed in 1935 partly to help the investor, but in large part to strengthen the power of state commissions to regulate rates. The large holding companies secured funds to purchase control over new local subsidiaries by siphoning the earnings of old ones, forcing them to make upstream loans [from the basic operating companies to the top holding companies in the system] and to pay unearned dividends and exorbitant fees for technical advice to the parent companies. Accounts were juggled to hide the extent of these transactions. The state commissions had no control over these large interstate holding companies, yet were prevented by them from lowering rates for service because of the artificial decrease in the earnings of the subsidiaries. To remedy this situation the Federal Public Utility Holding Company Act gave the Securities and Exchange Commission drastic power to simplify the capitalization and regulate the finances between parent companies and their subsidiaries.¹

Recently the SEC has been ordering the integration and simplification of some of the large incongruous units, but it remains to be seen how effective these orders will be. There is no doubt that the control over the issuance of new securities by the utilities has resulted in sounder securities with more protection for the investor. The enlarged powers given to existing state agencies and new federal agencies has meant that many of the former holding-company abuses are at an end, although the complicated financial structures that exist make it virtually impossible to control all aspects of holding companies as they relate to public utilities.

THE FEDERAL POWER COMMISSION

Title II of the Public Utility Act of 1935 gives the Federal Power Commission jurisdiction over all facilities used for the transmission of electrical energy in interstate commerce and the sale of such energy at wholesale in interstate commerce. The Commission is directed to divide the country into regional power districts and to

¹ T. Glocker, "Protecting Investors in Securities," *The Annals of the American Academy of Political and Social Science*, 206: 71, Nov., 1939.

encourage voluntary interconnection and coordination of facilities within each district and between districts. In case of war or a shortage of electric power, the Commission may compel a temporary connection of facilities so as best to provide for the emergency and care for the public interest. In addition it controls the acquisition and sale of properties the issuance of securities, and the accounting methods of electric utility companies engaged in interstate commerce.¹

This Commission was originally created under the Federal Water Power Act of 1920, to supervise water-power developments located on streams over which Congress had jurisdiction or on federal public lands. In 1935 this Act was amended to give the Commission power to regulate the interstate aspects of the business of supplying the nation's power needs. Because of changes in the act, it was renamed the Federal Power Act.

For some time there had been some question regarding the extent of the Commission's jurisdiction and also the extent of the Federal government's power over navigable streams and rivers. Many states had been objecting to the federal program of flood control and regional power development on the ground that state's rights were being invaded. In December, 1940, however, the Supreme Court, in the *New Rivers Case* (85 L. Ed. 201), upheld the powers of the Federal Power Commission and gave a very liberal interpretation to the extent of federal control over navigable streams. Under this decision regional flood control and power projects are likely to expand.

In 1938 the Natural Gas Act extended the jurisdiction of the FPC to natural gas moving between states. This was the first real attempt to regulate this major American industry. Previous state action had been hopelessly ineffective because of the interstate nature of the business. The orderly use of our natural gas seems necessary in order to make the most effective use of our oil resources.

This Act gave the FPC authority to regulate rates charged for the transportation and wholesaling of natural gas in interstate commerce, to grant certificates of convenience for proposed new

¹ For a good brief account of the Federal Power Commission and its powers under this Act, see J. Bauer and N. Gold, *The Electric Power Industry*, Harper & Brothers, New York, 1939, pp. 276-282.

pipe lines extending into the market area of existing companies, to direct extensions of existing pipe lines where existing markets would not be adversely affected, and to control the flow of natural gas over the nation's boundaries.¹ Acting under these powers the Commission has undertaken numerous rate investigations and has succeeded in getting reductions in rates amounting to millions of dollars.

Another 1938 act, the Flood Control Act, authorized the Federal Power Commission to undertake the river-basin planning contemplated in the Federal Power Act. In conjunction with any flood-control project constructed, the FPC is to see that full use will be made of whatever hydroelectric power can be generated. Under this Act the Commission had made comprehensive river-basin surveys for 307 flood-control projects all over the country. Several of these projects, which are in process of construction, appear to be highly important in the present defense effort, for it appears that additional electric-power facilities will be needed. In addition, the Commission is working for the interconnection and coordination of power facilities all over the country to meet needs and emergencies that may arise.

THE FEDERAL COMMUNICATIONS COMMISSION

Until recent years regulation of the communications industries was widely scattered and rather ineffective. Some aspects of regulation in this field are difficult to administer because of the constitutional prohibition on any infringement of freedom of speech. The regulatory bodies, therefore, must exercise great care in their actions. A harmless looking rule may be construed by a court as violating free speech and would therefore be nullified.

In 1910 federal control over interstate communications was established under the Mann-Elkins Act. This Act placed under the control of the Interstate Commerce Commission telegraph, telephone, and cable companies which transmit intelligence by wire or wireless in interstate or foreign commerce. The ICC retained this control until 1934 when the newly created Federal Communications Commission was given control over all forms of communication.²

¹ Federal Power Commission, *op. cit.*, pp. 9-10.

² The FCC has no control over radio rates, hence it can be said that radio broadcasting is not a public utility in the full traditional sense of that term.

Control over radio was begun under the Radio Act of 1910. This act ordered wireless installation on passenger-carrying steamships and set up a Radio Division in the Department of Commerce to enforce the law. The Radio Act of 1912 placed the licensing of wireless stations, wireless operators, and amateurs in the hands of the Secretary of Commerce and Labor. An adverse court decision in 1926 practically nullified whatever regulation existed, and chaos followed. Largely because of the physical scarcity of wave lengths which can be used for broadcasting, and the great demand for broadcasting licenses, Congress was forced to remedy the situation in radio by passing the Radio Act of 1927, which created the Federal Radio Commission. This commission became the licensing authority for all radio services and it is this licensing power which has served as the chief instrument of control over radio.

As the result of a special investigation suggested by President Franklin D. Roosevelt, Congress in June, 1934, passed the Federal Communications Act which unified the control over communications by vesting all control in the new Federal Communications Commission. The basic purpose of the FCC, as indicated by section 1 of the 1934 Act, is to regulate

... interstate and foreign commerce in communication by wire and radio so as to make available, so far as possible, to all people of the United States a rapid, efficient, nationwide, and world-wide wire and radio-communication service with adequate facilities at reasonable charges, for the purpose of national defense, and for the purpose of promoting safety of life and property through the use of wire and radio communication. . . .¹

Soon after its inception the FCC began an intensive study of long-distance telephone rates. As a result of this investigation interstate telephone rates were reduced in January, 1937, to effect an annual saving of \$12,000,000 to the public. On May 1, 1940, long-distance rates were reduced to the extent of \$5,300,000 yearly. If reductions effected since the establishment of the Commission were computed on a cumulative basis, the savings to telephone subscribers would amount to more than \$95,000,000 by 1941, without considering the increased traffic.²

In the radio field the FCC has made an extensive study of the alleged monopoly powers of the largest broadcasting chains. In an

¹ Federal Communications Commission, *An ABC of the FCC*, Washington, D. C., May, 1940, pp. 11-12.

² *Ibid.*

attempt to foster more competition the FCC asked the National Broadcasting Company to give up control of one of its two major networks. The Commission is also watching carefully the developments in the field of television and frequency modulation (FM) broadcasting. Both of these developments are likely to have marked effects on the radio field, and the FCC is trying to guide these innovations so as to protect the interests of all parties concerned, but especially those of the listening public.

Because of the war it is likely that stricter control by the Federal government will be established over all methods of communication — especially the radio, which has proved to be an outstanding agency for the dissemination of news and of propaganda. No one can now judge the extent to which censorship will be imposed, but it is hoped that it will be held to a minimum.

THE TRANSPORTATION UTILITIES

The transportation utilities include the railroads, motor carriers, water carriers, airplanes, and pipe lines. Local transport utilities are usually treated with other public utilities, while those mentioned above are given separate treatment because of their interstate nature. The capital investment represented by these utilities is an index of their importance in American economic life. Professor G. Lloyd Wilson estimated that the total investment in transportation facilities in the United States in 1933 was approximately \$61,250,000,000 or about one-sixth of the national wealth. This sum is distributed among the various transportation facilities as follows: highway transportation, \$28,000,000,000; steam railroads, \$26,000,000,000; electric railways, \$3,000,000,000; water transportation, \$2,000,000,000; air transportation, \$1,250,000,000; pipe lines, \$1,000,000,000.¹ Table XLVI shows the freight traffic distribution among the carriers. It indicates the preponderant position of the railroads among the carriers of the nation's freight.

The Economic Importance of Transportation. To appreciate the importance of the transportation system to the well-being of society one needs only to imagine the chaos and confusion which would result if all transportation agencies should suddenly cease operation. In a short time large cities would face acute shortages

¹ D. P. Locklin, *Economics of Transportation*, Business Publications, Inc., Chicago, 1938, p. 14.

of food and other necessities, and industry and trade would be at a standstill. In the present war, the transportation system assumes a position of paramount importance.

TABLE XLVI

PERCENTAGE DISTRIBUTION OF DOMESTIC FREIGHT TRAFFIC IN THE UNITED STATES FOR 1932, ACCORDING TO CARRIERS¹

<i>Carrier</i>	<i>Per Cent</i>
Steam railways	73.9
Great Lakes	7.8
Intercity trucks	9.4
Pipe lines (petroleum)	6.2
Inland waterways	2.5
Electric railways and airplanes	0.2
Total	100.0

In Vol. I, Chap. III on Technology, it was pointed out how important specialization, or the division of labor, was to increased production. Transportation plays an important part in specialization. For example, if an automobile manufacturer could sell his cars only within a radius of 50 miles of Detroit, because transportation to more distant places was too expensive or impossible, he would not have a wide market for his product. With a limited market his production would be small, and he would be unable to have the minute division of labor which he now has. Consequently, he could not produce his cars so cheaply as today. The division of labor is limited by the extent of the market, and the extent of the market is limited by the transportation facilities. With the cheap and efficient transportation that exists today, a manufacturer can sell his cars over practically the entire civilized world.

Before the days of railroads and good surfaced roads, farmers had to spend a large part of their time in hauling their products to market. Today, with efficient transport, they can spend virtually all of their time in the actual production of their products, and leave to the transportation agencies the task of shipping their goods. In this manner an increase in farm production is made possible.

Perhaps the greatest contribution which transportation makes to production lies in the fact that it permits production to be carried

¹ *Report of the Federal Coordinator of Transportation*, Washington, D. C., 1934.

on where it can be performed most economically; that is, it permits geographic specialization. One reason the citizen of today enjoys products from all over the globe is that the cost of transportation is a relatively small factor in most commodities. Without cheap transport each community would have to produce all the things it needed, or make great sacrifices to obtain those which it could not itself produce.

The Effect of Transportation on Urban Development.¹ The recent development of city and regional planning emphasizes the importance of transportation. In the past, competing forms of transportation have left their imprint upon the national urban pattern. Located originally on natural waterways, American cities found their sister towns rising during the canal era on new water routes. With the coming of the railroads, these canal cities met in their turn a similar fate. Cities began to bid against one another with subsidies and the demand for rate reductions. Nor have we yet reached the end of this process. The motor truck and passenger bus have long since entered the field of competition, and now the airplane is beginning to have its effect.

Not only has transportation affected greatly the location, pattern, and structure of our urban areas, but it has also played a dominant part in the speed with which our urban centers have developed. This development has required an unprecedented mobility of men and materials, and this has been provided by the harnessing of steam, electricity, and the internal combustion engine. Swifter forms of urban and interurban transportation have further led to suburban migration and have facilitated the emergence of metropolitan districts. Urbanization and suburbanization have meant not only a concentration of the nation's population, but also a centralization of enterprise in the nation's cities, metropolitan districts, urban satellites, and industrial areas. Of the more than 3000 counties of the country, the 155 which contained the larger industrial cities in the year 1929 embraced 74 per cent of all employees, 79 per cent of all wages paid, 83 per cent of all salaries paid, 65 per cent of all the industrial establishments, and 80 per cent of the value added to manufactured products.²

¹ This section is taken largely from National Resources Committee, *Our Cities: Their Role in the National Economy*, U. S. Government Printing Office, Washington, D. C., 1937.

² *Ibid.*, p. vii.

Railroad Rate Discrimination. Discriminatory rate- and service-practices seem to have been most common in railroads, although they are known to all utilities. Three factors seem to account for this condition. In the first place, the nature of the costs in railroads, namely, heavy fixed charges, creates a strong incentive for railroads to grant lower rates to some customers in order to attract more business and thus make more complete use of their plants. Second, the railroads, because of their monopolistic position in many localities, are in a position to charge discriminatory rates. However, because of water and, especially, motor truck transport, this position of monopoly power has been weakened or destroyed, and with this has come the breakdown of rate discrimination. Third, a special condition exists which makes it possible to practice discrimination, namely that the price charged for one item of traffic is independent of the price charged for any other item of traffic. This condition is akin to that of a doctor or lawyer, who may charge \$100 for a service to one client and \$1000 for the same service to a wealthier client.

The Problem of Regulation. With the conditions described above it is little wonder that rate discrimination became widespread. The situation grew to be so bad that the states were forced to enact legislation to prevent such abuses. In the case of *Munn v. Illinois*, the right of state regulation was upheld. The states regulated both intrastate and interstate rates until 1886 when, in the *Wabash* case,¹ the Supreme Court declared that the states could not regulate traffic which moved between the states. Since most railroad traffic was interstate, the decision left no regulation over most rates. This situation could not have continued and in the following year, 1887, the Act to Regulate Commerce, better known as the "Interstate Commerce Act," was enacted by Congress to provide a regulatory commission for interstate railroads. The Act

... applied to all movements of passengers and freight by railroad, and also covered joint and continuous rail and water traffic. It declared that all rates not reasonable and just were unlawful; it forbade any undue discrimination between persons, places, and commodities, specifically prohibiting a higher charge for a shorter than a longer haul over the same line in the same direction under substantially similar conditions; it prohibited pooling agreements; it required

¹ 118 U. S. 557 (1886).

rates to be posted and annual reports to be made by the carriers, and it established the Interstate Commerce Commission to carry out the provisions of the Act and enforce its orders through the courts.¹

Although hampered in its operation in the beginning because of court interference and because of vagueness in the law, the Interstate Commerce Commission (ICC) has won for itself a highly respected place among American regulatory bodies. From time to time the powers of the ICC have been expanded by new laws and by court decisions until today it has regulatory powers over most of the important aspects of railroads. Despite the creditable work of the Commission, however, the railroads of this country have gone through many trying times and financial difficulties, none perhaps so bad as the recent crisis, which saw over one-half of the railroad mileage of this country in serious financial difficulty. "In 1932 railways representing 72 per cent of our mileage did not earn their fixed charges."²

Methods of Solving Railroad Problems. The complexity of railroad problems makes it impossible to find a single solution for all of them; hence it has been necessary to attack each specific problem and to try to solve it with a specific remedy.

Much is being done, and still more remains to be done, in the way of reducing the heavy fixed charges of the railroads. Some of this is being done in reorganizations in which high-interest bonds are replaced by low-interest bonds, or bonds are replaced by stocks on which dividends are paid only if profits are made, or guaranteed interest bonds are replaced by income bonds which are guaranteed as to principal but not as to interest. In some cases fictitious capitalization is eliminated by squeezing out the watered stock. It would seem that further reductions in this connection are needed to bring the railroads into a fundamentally sound financial position.

The railroads have lost their feeling of disdain for the motor carriers and are now competing strenuously for the traffic. They are offering door-to-door service, they are improving their equipment, and they are meeting the rate competition of the motor carriers. Instead of classifying traffic according to value, they are offering container service, that is, charging so much to haul a

¹ G. M. Modlin and A. M. McIsaac, *Social Control of Industry*, Little, Brown & Company, Boston, 1938, p. 372.

² D. P. Locklin, *op. cit.*, p. 257.

certain size container a certain distance, regardless of what the shipper puts into the container.

Some progress has been made in consolidating weak roads with strong roads. Very often the combination is able to make a fair return. Many of the roads have been loathe to saddle themselves with weak roads, but eventually this must be done. Congress has declared that its policy is to encourage consolidation, but thus far it has not been compulsory. It is not unlikely that compulsion will be needed eventually.

Attempts have been made to aid the weak roads by giving them larger shares of joint rates, that is, rates which apply to traffic that moves over more than one railroad. Another means, which is no longer used, had been to raise rates on the stronger roads and then "recapture" these increases and make them available to weaker roads. The excess profits accruing to the stronger roads were put into a special fund from which loans to the weaker roads were made.

Some people believe that the only ultimate solution is government ownership. Of course, if the government inherits all the existing defects, the problems will not be solved, but the burden will be shifted. Perhaps some things could be done under public ownership that could not be done either on a voluntary or a compulsory basis while the railroads are in private hands.

Motor-Carrier Transportation. In recent years there has been a quick growth of motor transport. Several factors have accounted for it, namely (1) the excellent nation-wide hard-surfaced highways, (2) improved heavy-duty trucks and busses, (3) high railroad rates, (4) easy access into the industry (almost anyone could start in the trucking business with a few hundred dollars down on a truck), (5) the absence of regulation, (6) greater flexibility of routing, and (7) door-to-door service.

Trucks do not possess many of the drawbacks of railroad transportation. It is practically impossible to obtain a monopoly in truck transportation because the roadway is open to all, and because it is so easy to enter the business. This situation has been responsible for the weakening of the monopoly position of the railroads. Many shippers bought their own trucks and hauled their own goods when they thought that either motor-carrier rates or railroad rates were too high.

As a whole, the motor-carrier business has not been profitable.

With such easy access into the industry, competition became keen. Lack of organization prevented a return-haul business, so that many carriers, rather than return with an empty load, accepted cargo at a little above the direct out-of-pocket costs. Rates generally tended toward this level, because most of the costs of trucking varied with the amount of business done; fixed costs were very small because little investment was required. The railroads have charged that motor carriers enjoy an unfair subsidy in the free highways provided at public expense, whereas the railroads must maintain their own roadbed. There may be an element of subsidy here, but it must be remembered that the government gave to the railroads a subsidy of the first magnitude in the form of millions of acres of public domain in order to encourage railroad building. Moreover, trucks do pay a share of the cost of highway construction and upkeep in the license fees they pay. Being heavy users of gasoline, the three-quarter million trucks in operation in the transportation business pay substantial sums in taxes which go to support the highways.

Motor-Carrier Regulation. After the railroads finally awakened to the serious competitive threat presented by the motor carriers, their first reaction was to kill it off by seeking restrictive legislation in the states. Many of the restrictions and taxes on trucks may be attributed to the efforts of the railroads. Moreover, the railroads tried to choke off the motor carriers by having enacted into law numerous provisions regarding rates and certificates. Common provisions were to deny certificates of convenience and necessity to motor carriers if the intended service was already performed by railroads. Other provisions declared motor-carrier rates could not be lower than corresponding rates on railroads.

The situation in this industry became so complicated that in 1935, largely because of the pressure exerted by the railroads,¹ the federal Motor Carrier Act was passed as an amendment to the Interstate Commerce Act. This Act gave the Interstate Commerce Commission jurisdiction over interstate motor carriers. Under the law a common carrier, which will accept business from anyone offering it, must obtain a certificate of public convenience and necessity to engage in interstate operation. A contract carrier, a

¹J. N. Andrews and R. K. Michels, *Economic Problems of Modern Society*, The Ronald Press Company, New York, 1937, p. 352.

carrier which performs contract service only for a specified shipper, must obtain a permit which allows it to transport across state lines the goods of a single shipper. All carriers must furnish proof of financial responsibility in case of accident or damage to goods being shipped. Rates must be reasonable and nondiscriminatory, and if found to be otherwise, the Commission may establish both maximum and minimum rates of common carriers. It may be mentioned here that all carriers and other public utilities make their own rates originally, and such rates are not altered or set aside unless customers make complaints or the commissions themselves feel that the rates set by the utilities are not justifiable.

To facilitate the administration of the law, the Commission is authorized to operate through joint boards composed of the representatives of state commissions. As the latter have intimate knowledge of the local conditions and are in direct contact with local carriers, the arrangement should prove very beneficial in applying the Act. The law should go a long way toward eliminating many of the competitive abuses among motor carriers, in stabilizing the industry, in providing the public with reliable service at fair rates, and in coordinating motor transportation. That some of these objectives have not been realized, or that other situations have developed, may be inferred from the fact that Congress has recently passed the Wheeler-Lea Act which subjects the railroads and competing carriers to approximately the same regulations and restrictions.

Many railroads, as a last resort, have begun to acquire control of competing motor carriers, or they have started their own bus and truck companies. In many small communities the railroads have saved money by suspending rail operations and serving the localities with bus and truck facilities.

Water Competition. There can be no doubt that there is a place for water carriers in our transportation system, especially for bulky, low-grade, nonperishable products, which do not need fast transport and which cannot bear the burden of heavy freight charges. But the railroads have complained that much of the traffic handled by water carriers was secured on the basis of costs that were low only because of the special advantages and favored treatment received by these carriers, treatment not accorded to the railways. In other words, it has been contended that the competition fur-

nished by some water carriers is essentially unfair to the railroads.

Certain inland waterways have been constructed at heavy cost to the Federal government, and have proceeded to charge shippers rates so low that the receipts barely cover the operating expenses of these water lines. Under these circumstances, the shippers, of course, are not paying the full costs of transportation, but are being subsidized because the taxpayers assume the expenses for the fixed charges and the maintenance of the river channels, harbors, and wharves. The railroads, on the other hand, must maintain tracks, bridges, and terminals, and pay their own fixed charges and taxes. Thus, they not only lose traffic to these waterways, but pay heavy taxes as well, part of which goes to the support of the waterways, their competitors.

It is likely that for many commodities water transportation would be cheaper than other forms of transport without any subsidy, especially on the Great Lakes, where most of the inland water tonnage is carried. Most of this tonnage consists of iron ore, coal, and other bulky products; and the existence of this excellent water system has made possible the development of numerous lake cities and industries.

Before the enactment of the Transportation Act of 1940, which subjects all water carriers to the jurisdiction of the ICC, there had been only minor regulation of water carriers, and this regulation was divided between the Interstate Commerce Commission and the Maritime Commission. Today, all the important transportation agencies are under the single jurisdiction of the Interstate Commerce Commission.

The Transportation Act of 1940.¹ After long study and debate, and after the railroad executives had complained to Congress that the railroads were being discriminated against because they were subject to more stringent regulation than their competitors, Congress passed the Transportation Act of 1940, better known as the "Wheeler-Lea Act." This Act subjects common and contract motor and water carriers to the same general regulations under which the railroads have been operating.²

¹ For a more complete discussion of this Act see Ralph L. Dewey, "Transportation Act of 1940," *American Economic Review*, Mar., 1941, pp. 15-26.

² A common carrier offers its service to the general public; contract carriers offer service only to single firms under contract.

The Interstate Commerce Commission may now fix maximum, minimum, or exact rates or scales of rates for railroads, motor carriers, and water carriers. It may also rigorously determine entry into service of each of these three types of carriers by use of permits and certificates of public convenience and necessity. This means that before one may legally engage in interstate hauling by any of these carriers, he must first show the Commission that the service he proposes to establish is for the public convenience and necessity. This will likely hold down the numbers entering these fields in the future because they all seem to be suffering from excess capacity.

The National Transportation Policy. While the railroads have sought to secure legislation tending to restrict the competition for their business, Congress has repeatedly declared it to be its policy to foster each type of transportation in the kind of business for which it had a decided advantage, and to leave open for competition that area in which no form of transport had a decided superiority. In the terms of the Act of 1940:

It is hereby declared to be the national transportation policy of the Congress to provide for fair and impartial regulation of all modes of transportation subject to the provisions of this Act, so administered as to recognize and preserve the inherent advantages of each; to promote safe, adequate, economical, and efficient service and foster sound economic conditions in transportation and among the several carriers; to encourage the establishment and maintenance of reasonable charges for transportation services, without unjust discriminations, undue preferences or advantages, or unfair or destructive competitive practices: to cooperate with the several States and duly authorized officials thereof: and to encourage fair wages and equitable working conditions; all to the end of developing, coordinating, and preserving a national transportation system by water, highway, and rail, as well as other means, adequate to meet the needs of the commerce of the United States, of Postal Service and of the national defense. All of the provisions of this Act shall be administered and enforced with a view to carrying out the above declaration of policy.

PUBLIC ENTERPRISES

In order to give a more complete picture of the utility industries it is necessary to include the large number of public enterprises which provide a variety of goods and services to the public. There are some services which we feel can best be secured from private companies and others which we feel can best be secured from publicly owned enterprises. Thus the post office, the construction of highways and bridges, the maintenance of public schools, the protection

of the health and safety of the people, and others, have been considered proper functions of government. Generally speaking, when a service is essential to the welfare of the community and there is little prospect of providing such a service at a profit to a private company, the service is provided by government. Or when a service is so essential to the welfare of the community that we want everybody to have it, regardless of his ability to pay for it, it tends to become a publicly owned service.

Between these two areas of control there lies an area in which neither public enterprise nor private business operates exclusively, and it is with this area that this section is concerned. In this area are included water systems, which in most cases are community enterprises, although a sizable number are in private hands. Most electric power and light companies are privately owned, but there is a growing trend toward public enterprise in this field. The Federal government has embarked on a comprehensive scheme for the development of multiple-purpose watershed projects, some of which include the generation and distribution of electrical energy, which often competes with private companies. Partly in conjunction with this latter program there have developed rural cooperatives for the provision of electric service to the rural districts. In this area as a whole it would appear that public enterprise is making more headway than the private companies.¹

Municipal Enterprises. The trend in municipal ownership of enterprises has been a mixed one. During some periods there seemed to be an increase in the number and importance of such enterprises, while during other periods the reverse was true. At present there seems to be a marked increase in municipal enterprises, largely as a result of Federal government activity and assistance to the local units of government. The range of enterprises has been rather limited, gas plants, street railways, water systems, and electric companies being of chief importance.

Municipal gas plants were never very numerous or important. There has been a steady decline from the high point of 138 in 1914

¹ From 1932-1940 privately owned electric utilities increased their installed capacity by 2,900,141 KW., or slightly over 9 per cent, while publicly owned electric utilities increased their capacity by 3,938,484 KW., or about 180 per cent. In 1932 publicly owned electric utilities accounted for about 6 per cent of the total electric production, but by 1940 they produced about 12 per cent of the total. Federal Power Commission, *Electric Power Statistics*, Government Printing Office, Washington, D. C., 1940.

to only 71 in 1925 and these were chiefly in the smaller communities.¹ It appears that the introduction of electric lights was responsible for the decline. Among the larger cities only Philadelphia owned its gas plant, but its operation was left to a private concern.

Municipally owned street railways make up only a small proportion of this industry. Only 14 of the cities of over 100,000 population own their street railways, and the largest of these are New York, Detroit, and San Francisco. New York, Boston, and Philadelphia own their subways.² There has been some increase in municipal ownership in recent years largely because of the inability of the private companies to provide the kind of equipment and service desired at the price the public was willing to pay. New York City recently bought out all the private transport companies, with the exception of certain bus lines, in order to get a unified, modernized traction system. Chicago at present is trying to get a similar system, after over 14 years' effort to get a voluntary consolidation of the various systems.

About 70 per cent of the cities of over 10,000 population own their water systems. This means that an even larger percentage of the total population is served by such plants. The trend has been upward continuously, and in recent years sharp gains have been made, especially among the smaller communities. The Federal government through grants-in-aid, the PWA, and unemployment relief funds (WPA), has enabled virtually thousands of these communities to build new water systems or to modernize their old plants. The factors which seem to explain the dominance of public enterprise in this field are the economic necessity of a water supply, the need for fire protection, and considerations of health, sanitation, and hygiene.

The trend in electric enterprises has been a fluctuating one, with a decided increase in public plants in recent years under the Roosevelt administration. Municipal ownership in this field is as old as the industry itself, the original plants having been established to provide street lighting. From a high point of 3077 in 1923 the number of municipal plants declined to 1849 in 1932.

¹ W. E. Mosher and F. G. Crawford, *Public Utility Regulation*, Harper & Brothers, New York, 1933; p. 500.

² G. Lloyd Wilson *et al.*, *op. cit.*, p. 525.

The decrease, however, was in the smaller plants, since plants generating 500 or more horsepower increased steadily in number from 60 in 1903 to 536 in 1930.¹ The smaller plants had been selling out to the private utilities, who because of their more efficient size and modern equipment could undersell the obsolete municipal plants. Since 1933 a reversal of this trend has taken place. However, instead of owning both the generating and distributing systems, the newer municipal enterprises are concerned chiefly with the ownership of the distribution lines. They are able to buy electricity at wholesale from private companies or from government agencies, such as the TVA, cheaper than they can produce it themselves. The development of small, efficient Diesel generating plants has enabled some of the smaller communities to compete on favorable terms with the rates of the larger private utilities. Loans, grants-in-aid, and other financial assistance from the Federal government has been of chief importance in the recent upsurge of municipal electric enterprises.

As a general rule there is little pressure for public ownership if the private companies render good service at a reasonable price. If they resist downward revision of their rate structures, municipalities sometimes threaten to build competing plants. Such threats in many cases bring the desired result, while in other cases the municipality proceeds to build its own plant. Usually an attempt is first made to purchase the private utility's plant, so as to avoid wasteful duplication of facilities; but when this fails, new competing systems are built. In some situations it is found to be cheaper to build a new system than to pay the price asked by the existing utility, especially if a more efficient plant will result. It is curious to note that while the Supreme Court has often prevented local governments from reducing the rates of the utilities in rate cases, it has given its approval to the construction of competing systems by the local governments, even with the aid of federal funds. Such action may not only force the private company to reduce its rates sharply but may also result in ruin for the existing company.

Part of the Federal government's power program seems to be to encourage municipalities to acquire their own distribution systems and to buy their electricity at wholesale from private plants or from federal hydroelectric plants, such as TVA, Boulder Dam, or the

¹ G. Lloyd Wilson *et al.*, *op. cit.*, p. 522.

Columbia River projects. There has been a widespread movement in this direction, especially in the TVA region, where the federal project provides adequate supplies of electricity and federal financial assistance provides the means of acquiring such systems.

THE TENNESSEE VALLEY AUTHORITY

Origin of the TVA. While Franklin D. Roosevelt was governor of New York he became interested in the development of public power projects. He fought against the proposed grant of the unharnessed St. Lawrence River to a group of upstate utility interests.¹ He felt such developments should be under the direction of the state for the public welfare, and not for the private exploitation of the private utilities. With this background it was not surprising that Mr. Roosevelt announced as part of his political platform a new "national power policy" which, as President, he has taken steps to carry out.

President Roosevelt had in mind the multiple-purpose projects, some of which have been completed, some of which are in process of completion, and others of which only the blueprints exist. It was felt that the vast watersheds, which drain off the rainfall of the various sections of the country, could be developed into projects which would provide a variety of useful functions and services. The generation of hydroelectric power, navigation, irrigation, flood control, resettlement, economic rehabilitation, and other functions were to be performed by these projects. The Tennessee Valley Authority was the first and most publicized of these; others include the Bonneville and Grand Coulee projects in the Columbia River basin and Boulder Dam in the Southwest.

TVA was started in 1933 as one of the first New Deal measures. It was designed partly to provide work for the unemployed and stimulate the construction industry, but chiefly, it seems, as a starter for the development of public power projects. The Tennessee Valley was selected for several reasons. Undoubtedly the region needed rehabilitation. Floods and erosion had destroyed the fertility of millions of acres of farm land. The population was living on subsistence farms, and the general economic condition of the region was not favorable. In addition, and perhaps more impor-

¹ J. C. Bonbright, *Public Utilities and the National Power Policies*, Columbia University Press, New York, 1940, p. 29.

tant, there existed Wilson Dam on the Tennessee River. This dam, part of the Muscle Shoals development, was built during the last war to produce nitrates which were needed in the production of explosives. As it developed later, in the *Ashwander* case,¹ the existence of this dam was used by the Supreme Court as the basis of its decision in support of the constitutionality of the entire TVA project. Since the government had the legal right in the first instance to build Wilson Dam it likewise had the legal right to dispose of its property, in this case electrical energy, as it saw fit. From this point the court proceeded to justify the subsequent improvements and enlargements made under the TVA program.

Purposes of the TVA. The opponents of the TVA assert that the main purpose of the TVA was to produce electricity and sell it in competition with the private companies at unfairly low rates in order to get them to reduce their rates. They saw it only as a yardstick with which to measure the reasonableness of their rates. All the other alleged purposes were merely window dressing to win approval from the Supreme Court, to gain support for the necessary legislation in Congress, and to hide the real purpose of the project. While it is true that the power aspects were not emphasized it appears that the other purposes were actually contemplated. The actual record of the TVA during the past eight years would seem to support this statement.

The over-all purpose of the TVA was to develop the Tennessee River basin, this development to include the generation of cheap electricity, the control of floods and soil erosion, the improvement of navigation, the production of explosives and fertilizers, reforestation, national defense preparation, and the rehabilitation of agriculture and the general economy.

Extent of the TVA. The Tennessee basin is an area of 40,600 square miles in Tennessee, North Carolina, Virginia, Georgia, Mississippi, Alabama, and Kentucky. At its widest points this region is over 400 miles from east to west and nearly 200 miles from north to south. The population of the area is about 2,500,000, but the electricity generated by TVA can be made available to several times this number of people.

By late 1940, of the eleven dams (excluding the original Wilson Dam) which were contemplated, six had been completed, one had

¹ *Ashwander v. T.V.A.*, 297 U. S. 288 (1936).

been acquired, and four were under construction. The cost of the entire project will be in excess of \$500,000,000. As of June 30, 1940, the total assets of the Authority were in excess of \$347,000,000.

When the entire project is completed, the dams, all of which are on the Tennessee River or its tributaries, will furnish navigation facilities from the Ohio River to Knoxville, will reduce the flood crest on the Mississippi, Ohio, and Tennessee rivers, and will furnish over a million horsepower in hydroelectric generating capacity.

Results of the TVA. Although the project is incomplete, TVA sold 3,629,670,000 kilowatt-hours of electricity during the fiscal year ending June 30, 1940. This volume was twice that of 1939 and almost ten times that of 1936. Under the law preference in the sale of the electricity must be given to publicly owned distribution systems. In furtherance of this policy the TVA and the Federal government have aided many local units of government to acquire their own distribution systems. In 1940 TVA served 75 municipalities, 3 counties, 35 cooperatives, 12 temporary rural districts, 7 large industrial concerns, and 17 privately owned public utilities.

The existence of the low rates of the TVA has compelled many of the private companies operating in the same general area to reduce their rates. In order to ensure that the low wholesale rates of the TVA will result in low retail rates to the small consumer, the TVA in its contracts stipulates what the maximum retail rates shall be. Consumers getting the benefits of this cheap power pay on the average less than 2 cents per kilowatt-hour, in comparison with the national average of 4.4 cents. A significant result of these low rates has been a tremendous increase in the use of electricity. Low rates mean that it is possible to use many appliances that would be uneconomical if the rates were higher. The private companies that have reduced their rates have found that the increase in demand has increased their total profits. This result is in direct opposition to the dire results originally predicted.

Aside from the power aspects of the TVA, it has acquired almost 500,000 acres of land for the government, which is restoring it to woodlands and useful farm land. Over 5000 families have been removed from reservoir areas and assistance in rehabilitation elsewhere has been provided. In excess of 60,000,000 seedlings (small trees) have been planted for flood control and soil-erosion control purposes.

No final word can be said in appraisal until the complete program has been in operation for several years. There is no doubt, however, that this project will serve as the basis for the development of similar projects in other sections of the country. The TVA has demonstrated the soundness of the multiple-purpose development of river basins. Under this plan several conservation programs can be incorporated into one major plan, with resulting economies and better coordination. The soundness of the low-rate policy in stimulating consumption of electricity has also been established. The assistance to local units of government for the acquisition of their own distribution systems seems to have been justified, in view of the great extension of power lines to rural areas which had none before TVA existed.

The national defense aspect of the TVA was not emphasized in the early period of development, but it has turned out to be of utmost importance to the nation through the increased output of electric power for defense industries. In fact, the need for energy is so great that the TVA program has been increased recently, and some of the strongest support for this extension came from people who are not known as advocates of public ownership of utilities. Perhaps it is only by chance that the TVA has come to our aid in a period of stress, but this experience would seem to demonstrate the vital importance of long-range planning by government.

RURAL ELECTRIFICATION

Before 1933 less than 10 per cent of American farms had electricity. This situation denied to the farmers some of the conveniences of modern life. Work was harder and costs were higher because of the absence of a cheap source of power. Part of the power program of the New Deal included the extension of electrical services to the rural areas of the nation. The failure of the private companies to extend their lines voluntarily led to the establishment by Congress of the Rural Electrification Administration in 1933. It was reestablished in 1936 on the basis of a ten-year program. The funds made available to the REA were to be used to make loans for the construction of generating stations, transmission and distribution lines, and for the acquisition of appliances and equipment. Loans could be extended to utility companies, municipalities, power districts,

and cooperative associations, but preference had to be given to public and nonprofit organizations.

The main work of the REA appears to have been in its aid to the cooperatives which it has approved for loans. Over 700 such cooperatives have been established, and many more seem to be in the offing. Several hundred million dollars have been loaned at low interest rates to the cooperatives and to some private utilities. The low interest rate is an important feature, for a large part of the cost of supplying electricity is the cost of the capital used. The REA has shown the private companies that the cost of building rural lines could be materially reduced by using modern methods. In some cases such costs have been halved.

For the most part the REA is concerned with the setting up of distribution systems. Wherever possible it has tried to connect these systems with existing generating plants. In areas where government power projects exist the distribution systems naturally buy the electricity at wholesale from these plants. Where no such projects exist attempts are made to secure favorable wholesale rates from the private companies, and many such deals have been made. When no favorable contract can be made the REA loans the cooperative money for the installation of independent Diesel generating plants, which, while not so economical as the most efficient hydroelectric or steam plants, are able to produce current at a lower rate than it can be bought from some private companies.

There is no doubt that much good has been done for the rural areas under this program. Although the number of farms with electric service jumped 130 per cent in the four and a half years from the middle of 1935 to the end of 1939, 75 per cent of the farms are still to be reached.¹ A perplexing problem associated with this program is the question of subsidy. It appears that some of the loans cannot be paid back, and any great extension of loans for new cooperatives would undoubtedly result in more bad loans. It is a question for the people as a whole to decide whether to provide this service, even if it places a burden on the general taxpayer, or whether all such schemes should be put on a self-liquidating basis, with no burden on the general taxpayer.

¹ *Yearbook of Agriculture*, 1940, U. S. Government Printing Office, Washington, D. C., 1941, p. 68.

TERMS TO BE UNDERSTOOD

public utility	fair value
differential rates	fair return
unjust discrimination	yardstick
original cost	common carrier
reproduction cost	contract carrier
franchise	holding company
eminent domain	multiple-purpose project

QUESTIONS FOR DISCUSSION

1. In view of the general opposition to industrial monopolies, explain why monopolies are deliberately fostered in public-utility industries.
2. What are the techniques of rate regulation? What recent improvements have been made? What suggestions for rate regulation can you offer?
3. How have holding companies complicated the utility systems and their regulation? What has been done about this?
4. What are the arguments for and against the TVA and other multiple-purpose projects?
5. If you were made "transportation czar" in the event of war, what modifications would you make in the transportation system?
6. Do motor and water transport differ in essential respects from railroad transport? If they do, should they be subjected to the same regulation as provided in the Wheeler-Lea Act?
7. Can you see any discrepancies between Congress' avowed transportation policy and the existing regulatory setup?
8. If public-utility services (electric power, transportation, and so forth) are greatly expanded to aid the defense effort, what problems are likely to arise in the postwar period? What may be the over-all result of greater governmental aid and participation in this program?

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AGRICULTURE

AGRICULTURE IN AMERICAN HISTORY

It is only in recent years that Americans have become aware of the gravity of the problems confronting agriculture. The United States Department of Agriculture was established in 1862, but did not acquire Cabinet status until 1889. The study of rural life and problems received very little attention during the period of our national expansion as long as there was plenty of free land and a frontier to be conquered. It was not until 1908, when President Theodore Roosevelt organized his now famous Country Life Commission, that the conditions of existence, the problems, and the aspirations of the rural people of the United States were boldly called to national attention.¹ Since then, and especially since the advent of the great depression of the 'thirties, the needs of the rural sections of the United States have been widely recognized and what is commonly known as the "farm problem" has come to occupy a central position in national policy.

National agricultural policy is not explicitly set forth in a single law nor in combinations of laws. It is rather a set of fluctuating attitudes only partially revealed in a succession of laws of varying importance. Indirect approaches in the form of governmental action relating to taxation, tariffs, transportation, international trade, labor, credit, and resources may affect the well-being of the agricultural population as significantly as direct measures. If we would understand our national policy with reference to agriculture, therefore, we must take account of the whole complex of governmental intervention influencing the conditions under which farmers live and agriculture is carried on.

¹ "The classic report of this Commission marks the real beginning of the country life movement in the United States. . . . The movement that resulted is today carried on by the American Country Life Association." J. H. Kolb, *A Study of Rural Society, Its Organization and Changes*, Houghton Mifflin Company, Boston, 1935, p. 2.

The various measures government has taken to improve the lot of our rural population cannot be adequately evaluated, however, without a prior consideration of what the agricultural problems have been throughout our history and the forces responsible for the emergence of these problems. It is appropriate, therefore, to review briefly the major trends in our agricultural history and to follow in somewhat greater detail the salient factors that have shaped the farm problem at various stages of our national development.

DEVELOPMENT OF AGRICULTURE IN THE UNITED STATES

Land Policy. For almost three hundred years the greatest single influence on American agriculture was the existence of a vast supply of unoccupied land, readily accessible to the people through the liberal land policy of the government.

From the beginning of the Federal Government the conviction prevailed that the progress and prosperity of the Nation would best be promoted by private land ownership and therefore that the public domain should be rapidly distributed into private ownership. During the next hundred years this principle predominated in national land policies.¹

In colonial days anyone could purchase from the government as much as 640 acres for \$1.00 per acre. In 1800, 320 acres could be had for \$2.00 per acre. In 1820 an act was passed enabling the acquisition of 80-acre tracts for \$1.25 an acre. Encouragement of settlement and of individual farm ownership continued to 1891. The Preemption Act of Congress in 1841 even "recognized the vested interests of squatters who had established farms and homes on the public domain and proclaimed their rights of possession."² This policy was further liberalized by the passage of the Homestead Act in 1862, which permitted the head of a family to obtain 160 acres of land practically free of cost by residing on it for five years. A limited amount of land had been granted to individual owners as an inducement to or reward for military service. Large amounts were sold at auction. "Hundreds of millions of acres were transferred to the ownership of States and corporations through the

¹ L. C. Gray, "Our Major Land Use Problems and Suggested Lines of Action," *Yearbook of Agriculture*, 1940, U. S. Government Printing Office, Washington, 1941, p. 403.

² Paul V. Maris, "Farm Tenancy," *Yearbook of Agriculture*, 1940, p. 888.

swampland grants, grants in aid of education, and grants to subsidize the construction of wagon roads, canals, and railways.”¹ In a relatively short time frontier after frontier was passed. Hard-pressed eastern farmers and townsmen moved westward, and European immigrants came to this country in such numbers that by 1890 the United States census could report “There can hardly be said to be a frontier line” and by the beginning of the First World War our vast domain of 1,400,000,000 acres could be considered settled.

Hand in hand with the liberal land policy of the government went the fever of land speculation that seized the American people decade after decade. Railroad and land companies sold large tracts and parcels of land without either buyer or seller knowing anything about where or what the land was and with the sole purpose of transferring the title at a profit. It soon became clear that instead of encouraging the orderly settlement and intelligent use of the land and the establishment of family-owned farms, these governmentally encouraged practices were creating acute problems of maladjustment among the agricultural population and, indeed, for the country at large. In 1891 the policy of putting public lands into the unrestricted use of private individuals and corporations began to be abandoned and the Federal government inaugurated a program of reserving land in the public domain covered with timber and brush (amounting to nearly 195,000,000 acres in the next decade and a half). This was followed by a series of measures designed to reacquire, conserve, and improve the natural resources of the country and to remedy some of the disastrous consequences of unplanned settlement and of recurrent agricultural depressions.

Mechanization and Technology. Our early farms, especially in the North, were self-sufficient enterprises in which farming implements, as well as other items, were made by the members of the family. In the latter years of the eighteenth century the cradle and the scythe, which had been brought in from Europe, came into wide use. In 1793 the cotton gin was invented. The nineteenth century added the iron plow, the hayrake, mower, reaper, straddle-row cultivator, wire binder, cream separator, the threshing machine, and even the grain elevator.

The cotton gin was the first great invention to help commercialize

¹ L. C. Gray, *op. cit.*, p. 404.

the production of cotton; the mowing machine, the reaper, the binder, the threshing machine, the header, and the combine developed commercial agriculture in hay, corn, wheat, and other cereals. By 1890 most of the basic potentialities of agricultural machinery dependent on animal power had been discovered. The tractor has revolutionized agricultural production since 1920 more than any other one machine. In 1939 there were in use an estimated 1,626,000 in the United States. Probably 60 per cent of the farms large enough to use motor equipment used tractors in 1940.¹ More recently the combined harvester-thresher has come into wide use. Technology is not merely a matter of machines, however; it involves the application of science in many forms.

Technology is science, art, and invention. It is tractors, combines, corn pickers. It is the testing and breeding of animals and the conquest of diseases. It is hybrid corn . . . ways to feed cows . . . road building and rural electrification . . . contour plowing, conservation . . . management of forests . . . marketing and distribution . . . ways to kill [insect pests]. . . . It is a social and economic force . . .²

Increasing mechanization was responsible for the great reduction in the amount of farm labor³ needed for production. In 1850 about 30 to 35 man-hours of labor were required to produce 1 acre (40 bushels) of corn. By 1890 the time had decreased to 14 to 16 hours; and by 1930 it was reduced to 6 to 8 man-hours. Many displaced agricultural workers were therefore forced to seek employment in industry,⁴ as will be shown more fully later.

The use of mechanical power, moreover, has released for cash production millions of acres of land that was formerly devoted to raising feed. Improvements in plant culture and cultivation have brought about greater yields and higher qualities. Even conservation has created shifts in crops and land uses. On the industrial side new uses have been made of farm products: frozen packing, synthetic textile fibers, plastics, vegetable oils, and so forth.

Economic adjustment to technical progress has lagged far behind the adoption of machinery and scientific methods and has probably affected the farmer more than industry. For instance, the use of

¹ U. S. Dept. of Agriculture, *Technology on the Farm*, U. S. Government Printing Office, Washington, D. C., 1940, pp. 9-10.

² *Technology on the Farm*, p. 3.

³ Mechanization also eliminated the need for nearly 10 million horses and mules.

⁴ Obviously such a great displacement of labor met with opposition; some workers even broke the machines they thought would eliminate their jobs.

hybrid corn increased corn production by 100 million bushels in 1939.¹ Such surpluses brought about by technology have appeared faster than they were consumed and thus affected market prices adversely for the farmer. Industry has more control over its markets and its prices. Furthermore, the greater efficiency and better products achieved by technology have benefited the consumer more than the farmer.

It is not only in agricultural production, however, that mechanization has had revolutionizing effects, but in farm life generally. Especially through the use of the automobile and electricity for lighting and power, rural living has acquired some of the labor-saving and comfort-giving features formerly obtainable only in cities. By 1940 approximately two million farms, or about 29 per cent, had electricity. In the Pacific states about 78.5 per cent of the farms had current, whereas in the West South Central states only about 10 per cent had it. Since 1926 there has been more than a threefold increase in the quantity of electrical energy consumed by farmers.² That technology has had and will have other far-reaching influences on agriculture will become apparent in succeeding sections of this chapter.

Economic Organization. In 1790 over 90 per cent of the nation's gainfully occupied persons were engaged in agriculture. But even then there were considerable regional differences in the type of agriculture that was carried on. The New England farmers for the most part raised a variety of products for their own or relatively local consumption. The farmers of the middle colonies raised a considerable amount of grain and livestock for the market; and the plantation owners of the South grew such staples as tobacco, rice, and indigo, much of which was exported.

Improvements in transportation, the opening of the West, and the rise in farm prices during the last decade of the eighteenth century stimulated agricultural production. New commodities such as cane sugar in Louisiana and hemp, flax, and livestock in the western states came into production. Probably the most significant development of this period, however, was the rise of cotton growing, especially for export. The great reduction in the cost of cotton made possible by the use of the cotton gin was a tremendous

¹ *Technology on the Farm*, p. 21.

² *Ibid.*, pp. 15-16.

stimulus to cotton consumption. By 1801 over 8 million pounds were exported from South Carolina alone.¹

The later opening up of foreign markets, the growth in population, and further improvements in transportation resulted in an expansion of the market which completely transformed the economic organization of agriculture. Commercial farming and specialization began to displace subsistence farming, and the farmer became more and more dependent — on the market for cash, and on industry for the products which he no longer supplied for himself.

In 1860 agriculture was still the dominant economic activity of the country. Its prosperity or depression largely determined that of the entire nation; its products were the chief basis of the country's manufactures; and it furnished the bulk of the commodities entering the domestic and export trade. The development of American farm machinery had increased by this time to a point where it could be said to have led the world.²

In the wake of the Civil War followed still further changes in agriculture, stimulated by mechanical improvements, transportation, the homestead policy, and especially the expansion of foreign and domestic markets. The trend was in the direction of commercial farming. This was a period of increased extension of railroad lines. Farmers became intensely interested in railroads (even to the extent of mortgaging their lands to buy railroad bonds) because they represented cheaper and more abundant transportation. Since the cost of transport was a large part of the farmer's burden, he was of course interested in improved and economical facilities.

The extension of railroads westward spurred the livestock and the dairy industries and permitted the shipment of fruits eastward from California. Cereals became an important product. In 1899 they constituted almost half of the total value of crops raised. Exports of grain and of meat and meat products grew. Competition became more severe, and the farmer was forced to specialize in order to reduce costs of production to meet competition. The earlier trend in the tobacco and cotton-growing areas toward raising a surplus for sale in a national and world market now spread to other commodities.

¹ Chester Wright, *Economic History of the United States*, McGraw-Hill Book Co., 1941, p. 271.

² *Ibid.*, p. 360.

The marketing of agricultural products developed into a big business and led to the emergence of new economic institutions such as cotton and grain exchanges and commission houses. It was also accompanied by speculation in futures,¹ the rise of monopolies, exploitation of the farmer through high freight rates and excessive interest charges. The farmer was helpless to combat these forces and abuses; he had no organization to represent him. United action was slow and difficult to achieve. Local agricultural clubs having largely social and educational interests finally banded together into regional or sectional organizations which later assumed greater importance. The first prominent organization, however, was the National Grange, started in 1867. In addition to educational and social interests, it gave special attention to cooperative enterprises. Although the Grangers met with short-lived success because of lack of capital and experience, they paved the way for the influential cooperative movement of later years. Following the decline of the Grange, the National Farmers' Alliance and Industrial Union of America took the leading position among farm organizations. This was the outgrowth of the local agricultural clubs. In the early 'nineties, at the height of its power, this organization had around three million members.²

After the depression of the 1890's, which affected farmers more seriously than previous depressions, there followed a period of marked prosperity, when farm prices and land values boomed, and demand for exportable products increased. The expanding markets brought with them increased competition, more complex methods of distribution, and a wider disparity between the price the farmer received for his product and the price paid for it by the consumer. As trade increased in volume, the various businesses that handled farm products grew in size and strength, while the producer remained on the whole a small-scale operator.³ Farmers obviously became concerned about this situation and began to undertake various marketing functions themselves. This work was done largely through cooperative or semi-cooperative associations.

¹ By futures is meant contracts for commodities to be delivered at a specified future date.

² Chester Wright, *Economic History of the United States*, McGraw-Hill Book Co., 1941, p. 618.

³ In 1929 over one-quarter of all farms in the country yielded less than \$600 worth of products each, including those consumed by the family; less than 4 per cent of the farms produced over \$6000 worth each. *Ibid.*, p. 614.

Recent Problems of Agriculture. The present problems of agriculture, however, spring largely from the First World War. The farmers of this country enjoyed unprecedented prosperity as a result of the war demand for farm products. Prices were high, and farmers expanded production and took in new lands, many of which had formerly been considered submarginal. Land values skyrocketed, and loans to buy more land were freely granted by the banks. These loans often ran as high as 50 per cent of the new land values.

Before the war we were a debtor nation and paid to foreigners some \$200,000,000 annually, mainly in interest and principal on investments which foreign countries had made in our industries and railroads.¹ Under these circumstances it was natural that we should export more than we imported so as to enable us to meet these obligations abroad. Increased farm production enabled us to make exports of surplus farm products.

Our financing of the Allies during the war transformed us into a creditor nation. Instead of having to pay \$200,000,000 annually, we were to collect from foreigners \$500,000,000 a year.² This complete reversal of our position should have made us revise our international trade to make us largely an importer rather than an exporter of goods. Instead, however, we were reluctant to give up the favorable balance of trade and continued to export. Although we continued to send farm products abroad, prices were so low that the value of agricultural exports was cut in half in a single year.³

Foreign nations, to pay their debts, should have exported to us since we had already drained them of much of their gold. We made it difficult for them, however, by putting up tariff walls against their exports — by the Emergency Tariff of 1921, the Fordney-McCumber Tariff of 1922, and the Hawley-Smoot Tariff of 1930.

Thus we were faced with an increased farm production which was slow to readjust itself to normal conditions. The price of farm products and farm land collapsed while costs remained high (see Fig. 39). This caused thousands of bank failures in farm areas and hundreds of thousands of farm foreclosures. Furthermore, while farm incomes dropped sharply, the prices of the manufactured

¹ Broadus Mitchell and Louise Pearson Mitchell, *Practical Problems in Economics*, Henry Holt and Company, Inc., New York, 1938, p. 283.

² *Ibid.*, p. 284.

³ *Ibid.*

products which the farmers needed resisted price declines (see Fig. 40). In explaining this disparity it should be noted that farm prices are determined in a competitive world market, while many of the prices of goods the farmers buy are protected by high tariffs or are artificially pegged at high levels by monopolistic elements in industry. It should be noted that in 1914, the base year, prices of

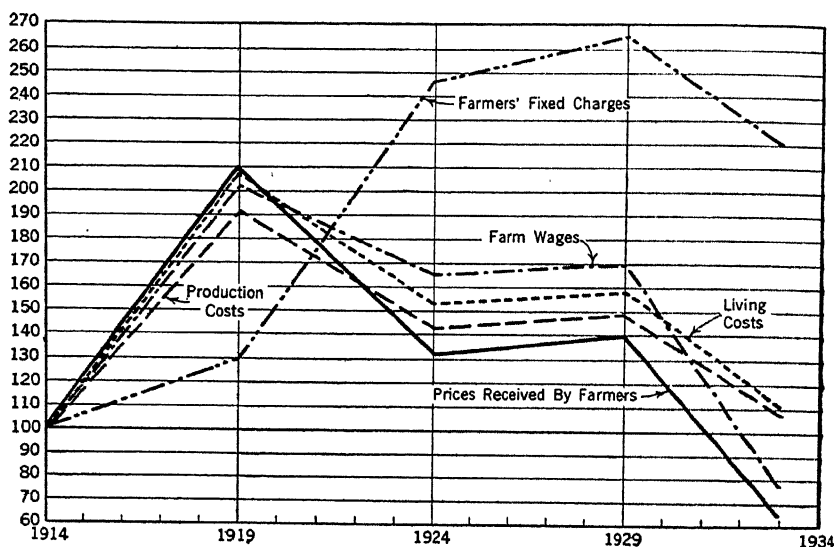


FIG. 39. PRICES RECEIVED BY FARMERS AND FARMERS' FIXED CHARGES, UNITED STATES, 1914-1933

From the World Almanac, 1940, published by the *New York World-Telegram*.

farm products and of manufactured articles were in equilibrium. Attempts to restore "parity" prices are attempts to reestablish the equilibrium between these factors which existed in 1914, a year of relative farm prosperity.

In a few years European agriculture recovered from its war decline and European demand for our farm products decreased. Furthermore, soon after we enacted the Hawley-Smoot Tariff, foreign nations retaliated with higher tariffs against our agricultural exports and with other trade restrictions.¹ This action led to the emergence of a policy of economic self-sufficiency in countries which had been among our best customers for agricultural products.

¹ Broadus Mitchell and Louise Pearson Mitchell, *Practical Problems in Economics*, Henry Holt and Company, Inc., New York, 1938, p. 285, gives figures on foreign tariff increases.

The farm situation from 1929 to 1933 is unparalleled in American history. The total gross farm income which reached its peak of \$16,000,000,000 in 1919 had fallen in 1932 to slightly above

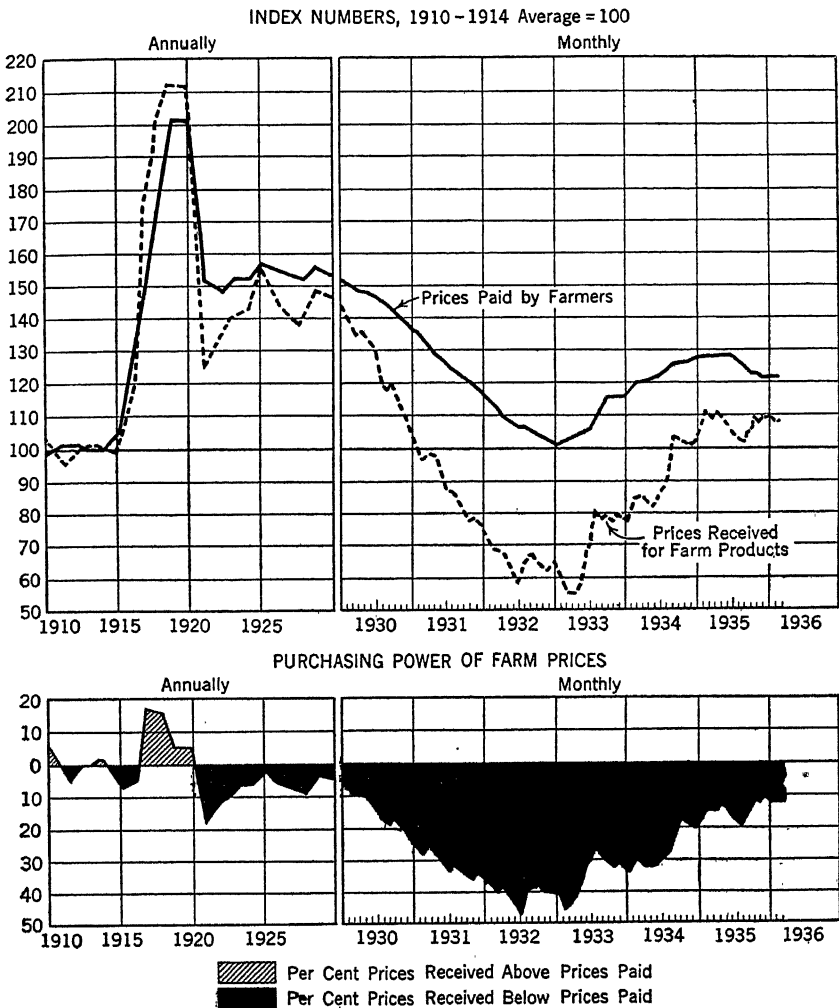


FIG. 40. PRICES RECEIVED AND PAID BY FARMERS IN THE UNITED STATES, 1910-1936

"Prices received for farm products" by farmers are based on price data for 34 major farm products and 13 commercial truck crops. "Prices paid by farmers" represents retail prices of goods bought for use in production and for family maintenance based on price data collected from approximately 2,000 retail dealers in all parts of the United States. Redrawn from Walter E. Spahr *et al.*, *Economic Principles and Problems*, Farrar & Rinehart, Inc., New York, 1936, by permission. Source of data: U. S. Bureau of Agricultural Economics.

\$5,000,000,000. Farmers, instead of reducing their output, planted even more in a desperate attempt to maintain their incomes. Thus exportable agricultural surpluses became increasingly burdensome. In addition, new competition appeared at home. Machines that took the place of horses released for cash crops 30 million acres that had been devoted to feed production.¹

All of these factors converged on the farmer. By 1933 the exchange value of farm products for industrial goods had fallen to 50 per cent of the prewar average. Their value in terms of taxes and interest was even less. The price disparity was most severe in export commodities such as cotton, wheat, tobacco, rice, and hogs. With surpluses mounting and markets stagnating, action became imperative. And act is what Congress did, as we shall see later.

THE RURAL POPULATION

The rural population is subdivided by the census into "the rural-farm population, which comprises all rural persons living on farms without regard to occupation, and the rural non-farm population, which comprises the remaining rural population."² According to the census of 1940 the rural farm population was 30,151,076, or 22.9 per cent of the total population of the United States.³ This contrasts with 30,157,513 rural farm people constituting 24.6 per cent of the total population in 1930. There were 6,096,799 farms constituting 1,060,852,374 acres or 55.7 per cent of the total land of the United States,⁴ as over against 6,288,648 farms constituting 986,771,016 acres in 1930. As was indicated in Chap. IV of Vol. I, the proportion of the rural population to the total population of the United States has fairly steadily declined, but this decline has been at a decreasing rate in recent decades (see Table XLVII).⁵

Along with this shift has come a change in the importance of agriculture in the total economy. In 1790 over 90 per cent of the nation's gainfully employed persons were engaged in agriculture;

¹ Broadus Mitchell and Louise Pearson Mitchell, *Practical Problems in Economics*, Henry Holt and Company, Inc., New York, 1938, p. 287.

² Preliminary release Series P-5, No. 3 (February 20, 1941) of the U. S. Bureau of the Census, p. 1.

³ *Ibid.*, p. 2.

⁴ U. S. Bureau of the Census, *Sixteenth Census of the United States: 1940, Agriculture, First Series, United States Summary*, U. S. Government Printing Office, Washington, D. C., 1941, p. 10.

⁵ See also Tables VI, VIII, and IX of Vol. I, Chap. IV.

by 1840 the percentage decreased to 77.5; in 1900 it was 35.7; and in 1930 it reached 21.5.¹ Technological advance in farm machinery created a surplus of agricultural workers who went to the cities to find work. More advanced methods of manufacture, large-scale production, and the widening of world markets for the finished product have absorbed to a large extent the surplus agricultural workers not only in manufacture but also in trade, commerce, transportation, and professional and public services.

TABLE XLVII²

URBAN AND RURAL POPULATION OF THE UNITED STATES: 1790-1940

Census Year	Total		Urban		Rural		Per Cent of Total	
	Population	Increase over Preced- ing Census (Per Cent)	Population	Increase over Preced- ing Census (Per Cent)	Population	Increase over Preced- ing Census (Per Cent)	Urban	Rural
1940	131,669,275	7.2	74,423,702	7.9	57,245,573	6.4	56.5	43.5
1930	122,775,046	16.1	68,954,823	27.3	53,820,223	4.4	56.2	43.8
1920	105,710,620	14.9	54,157,973	29.0	51,552,647	3.2	51.2	48.8
1910	91,972,266	21.0	41,998,932	39.3	49,973,334	9.0	45.7	54.3
1900	75,994,575	20.7	30,159,921	36.4	45,834,654	12.2	39.7	60.3
1890	62,947,714	25.5	22,106,265	56.5	40,841,449	13.4	35.1	64.9
1880	50,155,783	30.1	14,129,735	42.7	36,026,048	25.7	28.2	71.8
1870	38,558,371	22.6	9,902,361	59.3	28,656,010	13.6	25.7	74.3
1860	31,443,321	35.6	6,216,518	75.4	25,226,803	28.4	19.8	80.2
1850	23,191,876	35.9	3,543,716	92.1	19,648,160	29.1	15.3	84.7
1840	17,069,453	32.7	1,845,055	63.7	15,224,398	29.7	10.8	89.2
1830	12,866,020	33.5	1,127,247	62.6	11,738,773	31.2	8.8	91.2
1820	9,638,453	33.1	693,255	31.9	8,945,198	33.2	7.2	92.8
1810	7,239,881	36.4	525,459	63.0	6,714,422	34.7	7.3	92.7
1800	5,308,483	35.1	322,371	59.9	4,986,112	33.8	6.1	93.9
1790	3,929,214	—	201,655	—	3,727,559	—	5.1	94.9

There is considerable difference in the ages of the rural and urban population. A considerably larger proportion of the urban population is in the productive age groups (20-44 years of age). The number in this group is higher in the rural nonfarm than in the rural farm areas. There are, therefore (as might be expected from the discussion in Vol. I, Chap. IV), more children and more old people in rural areas. This is due not merely to the fact that the city

¹ *Yearbook of Agriculture*, 1940, pp. 1184, 1188, 1193, 1195.

² Source: Figures supplied by the U. S. Bureau of the Census, October, 1941.

attracts or recruits people of working age from the countryside but also to the fact that children and old people can be usefully occupied, at least in part, in the rural areas. Thus, whereas in 1940 58.7 per cent of the total population was in the age group 20-64, 62.9 per cent of the urban, 55.8 per cent of the rural nonfarm, and only 50.7 per cent of the rural farm population was in this category. A similar difference exists for the age group 20-44 years, the percentages for the urban, rural nonfarm, and rural farm population being 41.9, 38.1, and 32.5, respectively.¹

The difference between city and country people in respect to reproduction rates has already been discussed in Vol. I, Chap. II. The net reproduction rate (see Vol. I, p. 47) for 1940 was estimated at 76 for the urban population, 116 for the rural nonfarm, and 136 for the rural farm population. According to Dr. O. E. Baker, of the United States Department of Agriculture: "Ten adults in our cities today are rearing only seven children," whereas "in the farm population of the nation as a whole, ten adults are still rearing fourteen children."² Half of the farming people are in the South and among these the reproduction rate is higher than among the farming people in the North. From this Dr. Baker concludes that:

An increasing proportion of the nation's citizens of the future, probably ultimately a dominating proportion, will be the descendants of the poor but independent people of the Southern Appalachian Mountains, of the tenants and croppers and other less fortunate people of the Cotton Belt, of the hill folks that live along the Ohio River and its tributaries, of the Mennonites and Amish of Pennsylvania, Ohio, and Illinois, of the Russian-Germans of the Great Plains, of the Mormons of Utah and Idaho, and of other peoples, living generally on small and more or less self-sufficing farms, who have been partially isolated by their geographic location or religious convictions from the influences of modern urban culture.³

The rural population is composed of approximately the same great variety of stocks as the United States generally. The English country gentlemen who became the planters of the South and the English yeomen who settled predominantly in New England and to a lesser degree in the Middle Atlantic states and then turned to the West and the Appalachian Highlands and the Ozarks; the

¹ Release, U. S. Bureau of the Census, Series P-5, No. 3, *op. cit.*, p. 3.

² Oliver E. Baker, "The Farmer and National Unity," in *Democracy and National Unity*, ed. by William T. Hutchinson, University of Chicago Press, Chicago, 1941, p. 119.

³ *Ibid.*, p. 120.

Irish and the Scotch-Irish who settled in Maryland and Pennsylvania; the Dutch with distinctive rural communities in scattered parts of the East and the Middle West; the Germans in Pennsylvania and in diverse sections of the northern states; the Scandinavians in the Middle West and Northwest; followed by the Czechs in the Middle West; the Italians in New England and on the Pacific coast; the French Canadians in Vermont and New Hampshire; the Portuguese in the eastern fringe of New England; the Mexicans in the Southwest and West; and, of course, the Negroes in the southern rural regions — these were among the ethnic groups who built rural America.

Unlike the great cities, however, which draw the heterogeneous population elements into the same stream of communal life, rural communities are more likely to be composed of more homogeneous population elements, so that one community may be almost entirely made up of Scotch-Irish, another of Germans, another of Dutch, and so on, thus giving to the community a distinctive cultural life and institutional framework.

The Flight to the City and the Return to the Farm. While on the whole the trend of migration has been from the country to the city, following each depression — 1830's, 1870's, 1890's, and 1930's — there was a movement of city people back to the farm, and the dominant trend was temporarily slightly upset. The smallest decennial increase in the rural population was reached in the decade 1910–1920 when it was only 3.2 per cent. The phenomenal drop in the percentage of increase of the urban population between 1930 and 1940 to 7.9 per cent (from 27.3 per cent in the previous decade), as contrasted with a slightly increasing rate in the rural population during the same period, suggests the effect of the great depression. It is difficult to determine to what extent urban dwellers returned to the farms during the depression period or to what extent the decline of industrial job opportunities in the cities induced those who might have moved to the cities to stay at home. The final results of the 1940 Census, which are not yet available, will throw some light on this question. The relative opportunity for employment is considered one of the chief factors influencing the direction of migration, although the mechanization of agriculture, the disparity in standard of living, differences in cultural opportunities, and birth rates are others to be considered.

The Agricultural Village. The village stands midway between the country and the city, sharing some of the characteristics of each but having its own peculiar traits. It is comprised of the nonfarm population, including part-time farmers and people who live in rural territory but work in cities. A village is a population center ranging in size from 250 to 2500 inhabitants.¹

When one sees many small towns and villages declining due to excellent hard roads, the automobile, radio, mail-order houses and national advertising, one is prone to ask if the village has ceased to perform what was once a necessary function. In order to answer this question it is necessary to examine the origin of the village.

The Midwestern American village was not a social center, but performed some necessary economic function, such as transportation, retailing, or financing. Professor Sims, in his description of a Hoosier Village in Indiana, gives an interesting account of how two early pioneers established what later became the county seat. These two men bought land, divided it into lots, made out a town plan, and erected a courthouse, a jail, and later other political institutional buildings which in time attracted other business establishments, a store, a blacksmith shop, a newspaper, and other offices characteristic of a county seat.²

The large size of American farms operated against the establishment of the compact, closely knit village as the dominant form of settlement which was so characteristic of European rural life. The self-sufficient plantation of the South which had no need of the services of villages and towns except the political functions of the county seat was the American counterpart of the old English manor, and offered a fairly compact form of communal living. But the European and Oriental village from which the farmers went to their fields in the morning and to which they returned at night became the exception rather than the rule in the United States.

In America, agriculture and isolation first united, and the result was the solitary homestead set in the midst of the farmer's acres, miles from the nearest town. . . . Nevertheless . . . the village could not be entirely dispensed with, and today it has become the service station for the farming population.³

¹ J. H. Kolb and Edmund de S. Brunner, *A Study of Rural Society*, Houghton Mifflin Company, Boston, 1935, p. 75.

² *Ibid.*, pp. 77-78.

³ *Ibid.*, pp. 200-201.

Not all villages have the political status which comes with incorporation. Other things being equal, communities that have political status, especially if they are also county seats, tend to have a better chance of survival. Service institutions tend to go along with political institutions and lend the community the atmosphere of permanence. The development of the automobile, hard roads, and improved communication generally, however, make it possible for isolated farmers to reach the larger towns with as great ease today as they formerly had in reaching the villages in their immediate neighborhoods.

It has been feared on this account that the small villages would be likely to decline in importance. Professor Gillette has shown that the smaller incorporated places have lost population to a greater degree than have the larger incorporated places. Thus in the decade 1930-1940, of the 6529 incorporated places under 500 population counted in the 1930 Census, 38.7 per cent had lost population by 1940; of the 3434 ranging from 500 to 999 people, 29.8 per cent had lost population by 1940; while of the 2976 places with 1000 to 2499 inhabitants, 25 per cent had lost population by 1940.¹ It is difficult from the census figures to determine exactly the number of people living in unincorporated and in incorporated places. It has been estimated that in 1930 approximately thirteen million Americans lived in nineteen thousand villages of both kinds. In the same year about eight and three-quarter million of these Americans were living in 10,661 incorporated villages.²

Urbanization of Agricultural Life. In frontier days, when population was sparse and cities were small, when rural settlements were scattered and communication was infrequent, and when modern technology was still crude, the disparity between urban and rural was not very great. As urbanization proceeded, however, the differences between the urban and rural mode of life were accentuated. In recent decades, with the extension of railroads and roads, the diffusion of the automobile, the building of telegraph and telephone lines, the development of rural free delivery, of mail-order houses, the metropolitan press, national advertising, the radio, electric light and power, rural libraries, agricultural colleges, con-

¹ J. M. Gillette, "Some Population Shifts in the United States, 1930-1940," *American Sociological Review*, VI: 621, Oct., 1941.

² Kolb and Brunner, *op. cit.*, pp. 81-82.

solidated schools, and modern health and welfare services, the margin of advantage which urban life formerly had is narrowing. Rural life is further being urbanized by the dispersion of industrial plants into rural regions and by the mechanization of agriculture itself.

Not only does the countryside become increasingly enmeshed in the complex of urban life which is diffused from the great metropolitan centers outward, but also an increasing proportion of urban inhabitants are taking up residence on the fringes of the great cities, thus combining some of the features of living characteristic of the city with those of the country. While the life of these suburbanites is of course predominantly determined by the urban influences to which they are subjected, in many respects they furnish the model after which the more distant rural dwellings pattern themselves. The larger the central city, the wider is the region over which urban influences extend.

TYPES OF FARMING

Types According to Products. Farms may be classified according to the dominant products they produce. The relative importance of nine agricultural products per dollar of farm income is indicated by Fig. 41.

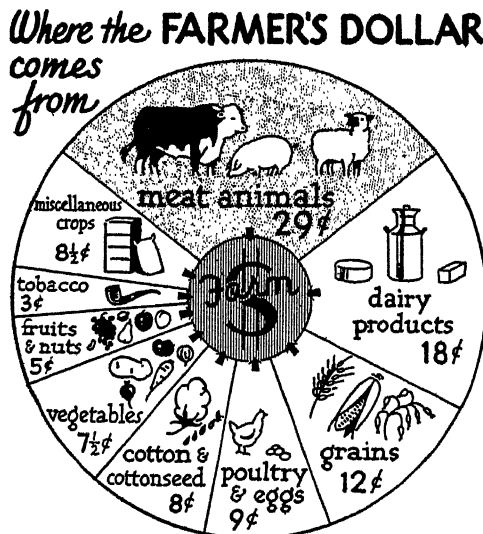


FIG. 41

Supplied by the Meat Packing Institute.

Grain. Small grain farms, wheat, oats, rye, and barley, are predominant in the Great Plains states — Kansas, Oklahoma, Nebraska, Minnesota, and the Dakotas; while corn is the major crop in Iowa, Illinois, and northern Missouri.

Livestock. Meat animals represent the most important source of income to American farmers. Although the major portion of the industry is centered in the corn-belt states, there is hardly a farm in the United States of 50 acres or more that does not contribute to this industry.

Fruit and Vegetable. The production of vegetables and fruits is widely distributed over the various regions of the United States. Certain areas like California, Florida, Texas, and the Northwest are especially well known for their fruits, although parts of New York and Michigan contribute largely to the fruit supply. Potatoes, berries, and vegetables are supplied from widely dispersed areas especially suited to their cultivation. Developments in marketing, transportation, refrigeration, and processing have enormously stimulated the market on a nation-wide and world scale for some of these products which formerly were available only in certain seasons of the year and in markets close to the place of production.

Dairy Products. The production of fluid milk, cream, butter, cheese, and other dairy products has assumed vast proportions in the United States. In some states like Wisconsin it is a major source of income to the agricultural population. Virtually every urbanized region of the country is dependent upon and stimulates the development of a milk shed — an area where intensive production of fresh milk goes on to supply the metropolitan market. As in the case of perishable fruits and vegetables, in the dairy industry too refrigeration and other modern developments have contributed to a stable nation-wide market the year around.

Cotton and Tobacco. Perhaps one of the most specialized forms of farming confined largely to the southern and southwestern sections of the United States is the raising of cotton and tobacco. The plantation economy has been intimately associated particularly with cotton production, and the fluctuations in the demand for cotton affect the state of well-being of large areas of the South.

Other Products. The production of wool, of hay, of sugar beets, of poultry and eggs, of maple sugar, honey, timber, nursery stock, pulpwood, tung oil, broom corn, and fox fur, and of other edible

products, fibers, pharmaceutical ingredients, and oils assumes great significance sometimes in conjunction with other forms of agricultural production and in other instances as a specialized form of farming.

Regional Specialization. Most farms, no matter how specialized, involve the production of some commodities for home consumption. On the other hand many small farms suited primarily for self-subsistence market some of their surplus products. The New England states have ceased to produce certain cereals because they cannot compete with the large-scale production of the western states, and have turned to the commercialized farming of fruits, vegetables, potatoes, and dairy and poultry products.

In the Middle Atlantic states, farmers have followed a mixed type of farming, producing wheat, corn, oats, hay, vegetables, and dairy products. The Southern farmers have devoted most of their acreage to corn, cotton, and tobacco, with a small portion of their farms given over to small grain and vegetables. Corn, wheat, oats, and hay are the principal products. Hog raising and cattle feeding are specialized activities in Iowa, Illinois, and northern Missouri; while Wisconsin, New York, and northern Indiana specialize in dairy products. Poultry and egg production has reached its greatest development in Oregon, Washington, and Idaho. Perhaps one of the most outstanding examples of commercialized farming is the citrus fruit of California and Florida.

The cotton belt includes Virginia, Kentucky, most of Tennessee, and the mountainous areas of North Carolina and Georgia which have no large-scale operations; the areas of heaviest plantation concentration are located in the level lands of eastern North Carolina, the lower Piedmont and Upper Coastal Plain of South Carolina, Georgia, and Alabama, the bluff regions of the Mississippi and its tributaries in Mississippi, Louisiana, and Arkansas.

Commercial and Self-Subsistence Farms. The distinction between commercial, self-sufficient, and part-time farming seems to be arbitrarily made on the basis of the proportion of farm incomes derived from the sale of farm products. A part-time farmer may obtain most of his living from his own farm products. A commercial farmer may consume more of his product than the part-time farmer produces and yet send a greater percentage of his product to the market.

Mechanized and Nonmechanized Farms. Over a period of time the size of farm has changed by inheritance, sale of land, and from other causes; but the introduction of power-driven machinery, displacing horses, has made the larger sized farm more economical to operate. Farm mechanization has been going on for the past half century, and there has been an increase in the size of the mechanized farm unit.

The recent appearance of the small tractor promises to bring further mechanization to the small farm. Its lower costs of purchase and operation makes it readily adaptable for small farm use. The introduction of the small tractor will probably have little effect in the small grain states but should aid the small farmers to succeed in the corn-belt area by checking the consolidation of small farms.

In the plantation South the small tractor and changes in farm organization have been displacing many sharecroppers. This does not represent any change in the size of the holdings, but extends operations by the owners to a greater portion of the plantation. It seems that the introduction of the small tractor will increase the size of farm holdings where mechanization can be economically employed, with the exception of the South.

THE STRATIFICATION OF THE RURAL INHABITANTS

Throughout the history of our country we have steadfastly held to the ideal of the owner-operated farms. Today when the word "farm" is mentioned the average person thinks of the "old homestead," as permanent as the rock of Gibraltar. There was the mortgage, to be sure, but there was also the determination and the ability to remove it. When older members of the farm family left for the city, where they were buffeted by the vicissitudes of commerce and industry, they knew that if the worst happened they could return to the old homestead and live in peace and modest plenty. Farm life with all its hardships, drudgery, and monotony was not devoid of compensations—religion, family devotion, social democracy, community pride, and love of the land itself. The word "home" more often than not called up rural rather than urban associations.

This ideal has for the most part disappeared. Each year farm people have been uprooted in increasing numbers. Loss of ownership has meant that hazard has replaced security; independence

has given way to dependency; and self-respect has been replaced by vain and often undeserved self-reproach. This condition has produced a class of people to whom modern writers often refer as "agricultural gypsies." Then too, the disappearance of the frontier, and technological advances as well as political and economic changes, have helped to increase agricultural instability.

This brings us to a classification of rural society and the problem of tenancy and farm labor. Changing economic conditions have produced agricultural classes as well as industrial classes. Of the 6,812,350 farmers in the United States in 1935, 2,865,155 were tenants.¹ Every year 40,000 more tenants are added to the tenant group. The President's Committee on Farm Tenancy reported in 1937 that "For the past ten years, farm tenancy has been increasing while the actual equity of owners in their farms has been decreasing."²

Farm Tenancy. Tenancy increased from 25 per cent of all farmers in 1880 to 42 per cent in 1935. If we include the 10 per cent of farmers who rent part of their land, and the 48,000 hired managers, less than half the farmers own all the land they work.

It is interesting to note that from 1920 to 1930 the number of farms decreased while the number of tenant-operated farms increased. Between 1930 and 1935 the percentage of tenant-operated farms decreased slightly, but there was a sharp decline in the subsequent five years. Besides governmental aid to agriculture this decline may be due in part to the fact that many tenants dropped into the farm labor class. There are wide differences in the regional distribution of tenancy in the United States (see Table XLVIII).

The Cash Tenant. The cash tenant enjoys the highest economic status of all farm tenants. This type of tenancy exists primarily in the northern and western states. The landlord supplies the fixed capital (land, taxes, building maintenance) and the tenant supplies the working capital (work stock, equipment, fertilizer, and a fixed amount in cash). The cash tenant suffered most severely during the depression because the drop in the price of farm products made it more difficult for him to pay cash. He therefore was forced in some instances to pay the landlord in crops. Furthermore, since the AAA program paid benefits to the cash tenant but not to the share-

¹ Mitchell and Mitchell, *op. cit.*, p. 320.

² "Farmers in a Changing World," *Yearbook of Agriculture*, 1940.

cropper, the landlords preferred to put tenants on a sharecrop basis so that they themselves might receive these benefits.¹

TABLE XLVIII²

PROPORTION OF FARMS OPERATED BY TENANTS, BY GEOGRAPHIC DIVISIONS:
1940, 1935, 1930

	1940	1935	1930
United States	38.7	42.1	42.4
New England	7.4	7.7	6.3
Middle Atlantic	14.6	16.2	14.7
East North Central	27.9	29.4	27.3
West North Central	42.4	42.6	39.9
South Atlantic	42.2	46.3	48.1
East South Central	50.1	54.8	55.9
West South Central	52.6	59.5	62.3
Mountain	24.6	26.6	24.4
Pacific	18.5	21.2	17.7

Crop Sharing. The tenant under the crop-sharing system pays rent to the landlord in the form of a share of the crops. He usually is also dependent on the landlord for work stock, implements, seed, fertilizer, and even advances in food and clothing. About 25 per cent of all American farmers are sharecroppers. Characteristically the share-cropping districts are the slums of rural America. This type of tenancy is found mostly in the southern cotton and tobacco regions, and stems from slavery.

When Negroes were slaves, "poor whites" (also known as "hillbillies," "dirt eaters," and "crackers") were thrust into the agricultural periphery on the poorest land — victims of the slave system. After the Civil War, the plantation owners had no money to pay wages, and neither the freed Negroes nor the poor whites had money to pay rent. The labor of Negroes and whites alike thus came to be paid in crops while food and clothing were furnished to the workers in advance of the harvesting and sale of crops — the so-called "furnishing" system.

¹ Mitchell and Mitchell, *op. cit.*, p. 322.

² Source: U. S. Bureau of the Census, *Sixteenth Census of the United States: 1940, Agriculture*, First Series, United States Summary, U. S. Government Printing Office, Washington, D. C., 1941, pp. 16-17.

This system gave the landlord a lien on the crop, no part of which belonged to the tenant until the landlord divided it. Under this plan, the commissary of the plantation kept a record of the food and other supplies advanced to the tenant until his crop was harvested. Charges for credit terms have, in some instances, been as high as 200 per cent. The average charge in recent years has been from 20 to 50 per cent. The average cropper family income divided between "furnish" and cash amounts to \$122, or \$28 per person. The Atlantic Coastal Plain showed an average family income of \$255, while the Lower Delta represents a total net income of only \$42 per family.¹

Other contributing factors to the low economic status of the sharecroppers is the fact that they have the highest birth rate and the highest degree of illiteracy. Few of their children go beyond the fifth grade in school. They are handicapped by bad health. Their powers of resistance are low, and they are easy victims of malaria, typhoid, and pellagra.

Agricultural Laborers. There were in the United States in 1930 about 4,392,000 agricultural laborers.² Although these people are paid in wages, their economic and social status is no better in many respects than that of the sharecropper described above. Many of them have miserably low incomes and little opportunity to accumulate sufficient money to make the down payment on a farm.

Great numbers of agricultural workers are migratory workers. They follow the harvests; wheat in the western states, sugar beets in Colorado; fruit in California and Florida. These workers and their families travel about the country, living in tents or temporary camps. Their living quarters have been described as squalid, overcrowded, and insanitary. The workers' net annual income is very low, representing only \$200 per family. Their living conditions have been somewhat improved recently through the establishment of government camps which also contain facilities for furnishing information on employment opportunities.

Part-Time Farming. The combination of farming with a job that brings a cash wage is of long standing in the United States. It is especially prevalent in those rural areas adjacent to industrial

¹ Mitchell and Mitchell, *op. cit.*, p. 327.

² H. Dewey Anderson and Percy E. Davidson, *Occupational Trends in the United States*, Stanford University Press, Stanford University, Cal., 1940, p. 74.

development. It has been accentuated by improvements in roads and widespread automobile ownership. Industrial workers try to supplement their reduced wages in industry with part-time farming, and farmers attempt to supplement their reduced farm income with industrial employment. In such states as Alabama, Georgia, and South Carolina part-time farming is carried on by workers in all the major industries of the region, such as cotton textile manufacturing, lumber, naval stores, coal and iron mining, and other gainful employment.¹

The advantages of part-time farming are that it supplements family income, encourages home ownership, to some degree raises the plane of living, and makes for greater security. Its disadvantages, however, are numerous. It reduces recreational opportunities, it may tend to lower wages in industries, reduce the market for agricultural products as a whole, and furnishes no fundamental solution to the unemployment problem. It is to be advocated and encouraged only where industry offers sufficient advantage to workers not to detract from or diminish their opportunities to partake of the amenities of life, to avail themselves of such education and appreciation of cultural values as will make them useful citizens in the community, and to enable them to gain the benefits of collective bargaining in industry.

Marginal Farmers. There are about 500,000 farmers trying to work submarginal land — eroded uplands, cutover areas, and arid plains. Many counties in these districts have had from 20 to 30 per cent of their people on relief.² Some of them are owners of their land but are burdened with debt, sometimes having mortgages in excess of the current value of their properties.

RURAL STANDARDS OF LIVING

Differences in income are accompanied by differences in standards of living. It is interesting to note that before the First World War (1914–1918) our agricultural population represented 30 per cent of the total population and received 15 per cent of the national income; in 1933 the farm population (then 25 per cent of the total population) received only 7 per cent of the national income.

¹ Works Progress Administration, *Part-Time Farming in the Southeast*, U. S. Government Printing Office, Washington, D. C., 1937, p. xxxii ff.

² Mitchell and Mitchell, *op. cit.*, p. 334.

This change came abruptly when the ratio of prices received by the farmers to prices paid by them for needed commodities was reduced from a prewar level of 100 to a level in August, 1930, of 72. The values of farm land decreased from a peak of 170 per cent of the prewar value in 1920 to a level of 115 per cent ten years later.

Both urban and rural groups suffered drastically after the First World War. The industrial workers and the rural population were forced to adopt lower standards of living due to a smaller income as compared with prices of commodities they had to buy. This condition has caused a greater shifting of population than ever before. Rural and urban societies have the problem of readjusting themselves to this changing standard of living. Consequently future trends of rural life have become uncertain.

Proportionally fewer people are engaged in agriculture than at any previous time. Prior to the machine age this would have been considered a calamity, but the improved technologies have multiplied production per man to such an extent that, in spite of increased specialization and the loss of markets, many farmers today feel that their very success will prove their undoing. Indeed in many communities farm families have already given up their recently acquired standards of living and have been forced back to a bare subsistence basis.

It is widely recognized that there must be an adjustment of the great differences in buying power of urban and rural communities. The great bulk of our population is actively engaged in our two largest industries, manufacturing and agriculture. One cannot be ill and the other healthy for any great period of time without causing economic disaster. Manufacturing and agriculture are so dependent upon each other that any maladjustment in the one soon causes serious disruptions in the other. This interdependence has become all the more pronounced because of the high degree of technological advances employed by both manufacturing and agriculture.

Whatever form of readjustment our rural society may take will depend upon our national policy. If we follow the policy of reducing our international relations, then our specialized crop areas which furnished at one time half of our exports will have to undergo radical reorganization which will result in reducing the rural standards of living. On the other hand, if we recapture our foreign

markets and domestic markets are also increased, then we can hope for a restoration of the 1913-1914 price relationship. There would still be an answer for those who think we have taken mechanization too far. If the latter condition exists, then a much smaller rural population could hold a happy balance with a much larger urban population than we now have. If we resort to a self-sufficient economy and strive for an approximation to the high levels attained in the greatest period of prosperity, it will involve a greater degree of conscious planning and government supervision and regulation than this country has ever known. Satisfactory relationships of standards of living among the various groups cannot be attained without considerable planning.

DEPRESSED AGRICULTURE

Much of the farm-mortgage situation that prevails today is directly traceable to the speculative activities in farm land immediately following the outbreak of the First World War. During that period the prices of American agricultural products soared to unheard of heights. On the basis of these new land values mortgage loans were made up to as much as 50 to 60 per cent of this amount. When prices of land advance under the stimulus of speculative values to levels that are not justified by income-producing capacity, operators of such land who are depending for a livelihood upon what it will produce are moving toward bankruptcy. This fact helps to explain the growth of farm tenancy in the United States.

In January, 1939, the farm-mortgage debt of this country was estimated at \$7,071,000,000. In 1923 it was \$10,751,000,000. The greater percentage of the decrease between these two dates was due to foreclosure proceedings and debt write-off. Mortgage debts represent inescapable obligations that must be met from farm earnings.

Farm tenancy increased from 25 per cent in 1880 to 42 per cent in 1935 for the nation as a whole, while in some states as many as 70 per cent of the farms were operated by tenants in 1935. If this increase in tenancy, representing loss of ownership by those who operate the land, is compared with the mortgaged indebtedness, we find that the equity in the total farm land of the nation held by those who cultivate the land declined from 62 per cent in 1880 to 39 per cent in 1935.

The Securities Exchange Commission in a recent survey reported to the Senate Monopoly Committee that the farm-mortgage holdings of twenty-six of the leading insurance companies amounted to \$743,961,000. The interest charges on the mortgages amounted to \$31,000,000 annually. According to information assembled by the Department of Agriculture, in the ten-year period from 1929-1939, these life insurance companies acquired more farm real estate than any other type of lending agency. The real-estate holdings of one insurance company alone amounts to 7000 individual farms, supervised by a corps of over 350 agricultural experts.

These insurance companies, according to the SEC report, maintain a powerful lobby through the Association of Life Insurance Presidents. They participated in the litigation testing the constitutionality of the Frazier-Lemke Act, which provides that a farm mortgagee who is unable to meet his interest charges may declare himself a voluntary bankrupt. The mortgagor may force the sale at public auction, after which the original owner may buy it back at the auction price plus interest charges at 5 per cent.¹

Farm Capital and Investment. Displacement of hand power by mechanical power and equipment has increased the farmer's capital investment in the farm plant. In 1930, the value of land and buildings represented 84 per cent of the total investment, while machinery represented 5.8 per cent.

For the average size farm the investment in modern machinery is far out of proportion to other investments. The farmer has what industrialists call a "top-heavy" financial structure. The small-scale operator is at a still greater disadvantage. The machinery which is a boon to extensive farming is a financial burden to a small farm. Capital investments in the prevention of soil erosion, methods of conservation, combating insects, and such technological advances that are necessary require an additional estimated outlay of 25 per cent of working capital and about 5 per cent of invested capital.

Agricultural Unrest.² Historically, the discontent of the American farmer began immediately following the Revolutionary War. With the depreciation of paper money and the growing scarcity of specie many farmers lost their homes through foreclosure

¹ *US Week*, I: 7, April 26, 1941.

² "Farmers in a Changing World," *Yearbook of Agriculture*, 1940, pp. 1184-1197. Also, Harold U. Faulkner, *American Economic History*, 3rd ed., Harper and Brothers, New York, 1935, Chaps. 8-11, 18, 19, 27.

during the three-year depression that followed. This economic unrest and class antagonism reached its climax in the Shays rebellion of 1786, when many hundreds of disheartened farmers moved westward to take up new lands. The period following down to the Civil War marked a great westward movement of frontiersmen prompted by the government's free and easy land policy. As an English traveler remarked "the American farmer has become a land speculator instead of a tiller of the soil."

Great progress had been made in invention and adoption of new machinery. Agricultural societies, county fairs, and farmers' journals were effective in disseminating information of the new machinery and improved methods, while a beginning of education had been made in schools and colleges.

The transfer of manufactures from the farm and home to the shop and factory caused farming to become less self-sufficient and more of a specialized and commercial enterprise. The farmers began to need cash in order to buy the things they had formerly produced, and the growing urban and industrial populations required specialized agricultural production to support them.

Tariff legislation tended to increase the antagonisms between the commercial and farming interests. The Southern farmers, especially, began to wage a losing fight against the protective tariff, which increased the cost of many manufactured goods they had to buy.

Following the Civil War farmers began to revolt against their economic disadvantages. The shift in power from the agrarian to the financial and industrial interests was reflected in the issues of the day: hard money, high freight rates, and monopoly. Out of these issues developed such movements as the Grange, a farmers' organization which had for its purpose to secure favorable legislation against excessive freight rates and regulation of hard money; the Agricultural Wheel, later absorbed by the Farmers' Alliance whose original purpose was taken up by the Farmers Union and the American Society of Equity in an effort to give the farmers bargaining power in their dealings with industry; and the Farmers Mutual Benefit Association, organized for bettering the farmer's economic status and committed to the cooperative principle.

A national system of agricultural experiment stations was set up under the Hatch Bill of 1887. The Sherman Antitrust Act was

passed to stem monopolistic control, while a flood of tariff legislation raised the tariff barriers still higher on the products farmers had to buy and threw a sop to farmers by inserting a tariff on agricultural products.

The climax of agricultural distress in the United States was reached in the years following the First World War, as evidenced by the decline of land values and the loss of markets resulting in huge surpluses of agricultural commodities. A variety of legislation to allay rural unrest was resorted to, much of it under the pressure of the farm bloc which was organized in Congress in 1921.

Farm Incomes. The disparity between prices of agricultural and nonagricultural products has long been a subject of controversy. The last decade has witnessed more legislation and publicity with reference to this question than the whole previous century. Prices of agricultural and nonagricultural products have tended to fall and rise at the same time, but not in the same proportions. At the beginning of the depression of 1920 agricultural prices fell first and farthest and remained down longer than nonagricultural prices; this same situation occurred in 1929 and was repeated again in 1937. For a comparison of farm and nonfarm per capita income see Table XLIX.

TABLE XLIX¹

FARM AND NONFARM PER CAPITA INCOME: 1932-1939

<i>Year</i>	<i>Per Capita Income</i>	
	<i>Farm</i>	<i>Nonfarm</i>
1910-1914	100	100
1932	41	121
1933	62	112
1934	88	126
1935	108	133
1936	121	149
1937	129	162
1938	109	150
1939	104	155

Between the years 1935 and 1936 over 600,000 farm families received some kind of direct relief and the income of the other 6,000,000 was distributed as is shown in Table L.

¹ *Yearbook of Agriculture*, 1940, p. 355.

TABLE L¹

DISTRIBUTION OF NONRELIEF FARM FAMILIES BY INCOME LEVELS, 1935-1936

<i>Income Level (Dollars)</i>	<i>Families (Number)</i>	<i>Proportion of All Families (Per Cent)</i>	<i>Cumula- tive Per- centage of Total</i>	<i>Income Level (Dollars)</i>	<i>Families (Number)</i>	<i>Proportion of All Families (Per Cent)</i>	<i>Cumula- tive Per- centage of Total</i>
Under 250	232,040	3.8	3.8	1000 to 1500	1,394,821	22.6	74.9
250 to 500	858,963	13.9	17.7	1500 to 2000	730,811	11.8	86.7
500 to 750	1,108,400	18.0	35.7	2000 to 2500	340,645	5.6	92.3
750 to 1000	1,027,044	16.6	52.3	2500 and over	473,834	7.7	100.0

Assuming that 85 per cent of the relief families receive less than \$500, these data indicate that approximately 1,600,000 families, or almost one-quarter of all farm families, have incomes of less than \$500 a family, and that about 40 per cent of all farm families have incomes under \$750.²

The data have serious social implications when we consider that the minimum needs for health and decency for the typical farm family of two adults and three children are an income of \$750 a year with the prices prevailing as of 1936.

The 1930 Census classified farmers according to gross farm incomes as indicated in Table LI. According to the census in 1929, the year before the depression began to affect farmers' incomes, approximately one-half of all farmers in the country had gross incomes of less than \$1000, while more than one-fourth had gross incomes below \$600.

The lower income group lived in substandard houses and supplemented their incomes by some off-farm employment. Only about 10 per cent of the group was employed off the farm as much as 150 days. It has been estimated that the gross income of the group who received less than \$1000 amounted to \$615, of which \$200 represented products consumed at home. The average gross farm income received by the group whose gross farm incomes were less than \$600 amounted to \$375, of which \$180 represented the value of products consumed at home. The balance of \$195 represented the average gross cash income, out of which operating expenses, such as rent or mortgage-principal payments, interest, taxes, feed and fertilizer, and replacement of machinery had to be paid first. If there was a

¹ *Yearbook of Agriculture*, 1940, p. 388; arranged from data in National Resources Committee, *Consumer Incomes in the United States, Their Distribution in 1935-1936*, p. 10.

² O. V. Wells, "Agriculture Today: An Appraisal of the Agricultural Problem," *Yearbook of Agriculture*, 1940, p. 388.

remainder it was available for the purchase of food, clothing, household furniture, medical care, and education of the children.

TABLE LI¹

GROSS FARM INCOME (VALUE OF PRODUCTS SOLD, TRADED, OR USED BY OPERATOR'S FAMILY) REPORTED BY FARM FAMILIES IN THE UNITED STATES IN 1929, BY INCOME GROUPS

<i>Gross Farm Income (Dollars)</i>	<i>Farm Families</i>		<i>Gross Farm Income (Dollars)</i>	<i>Farm Families</i>	
	<i>Number*</i>	<i>Per Cent*</i>		<i>Number*</i>	<i>Per Cent*</i>
Less than:			Less than:		
250 . . .	397,517	6.6	4,000 . . .	5,474,430	91.2
400 . . .	915,549	15.2	6,000 . . .	5,765,542	96.1
600 . . .	1,681,667	27.9	10,000 . . .	5,913,295	98.5
1,000 . . .	2,927,351	48.6	20,000 . . .	5,974,905	99.6
1,500 . . .	3,865,261	64.6			
2,500 . . .	4,846,424	81.1		5,999,882	100.0

* Cumulative.

Regardless of how we classify our farm population the fact remains that in the lower income group there are millions of people who are in the poverty class. Incomes which are insufficient to meet the American standard of living and to provide security for the future certainly mean ill health, insanitary conditions, poor housing, and illiteracy.

Rural Migration. The American people, for a variety of reasons, move more often than the inhabitants of any other nation. Up until the passage of our last frontier, migration, for the most part, had been from East to West. For the past half-century there has been a noticeable movement of population from rural to urban areas with the exception of the period from 1930-1932, when there was an unusual movement of persons from the cities to the farms. However, the net migration from farms, 1930 through 1934, averaged only 120,000 as compared with an annual average of 600,000 during the decade 1921-1930.

Among the factors which add to rural discontent are: (1) mechanization, which has eliminated certain types of work and has seriously affected others; (2) the seasonal fluctuations in specialty-crop areas involving irregular periods of employment and the lack

¹ *Yearbook of Agriculture*, 1940, p. 816.

of permanent residence. Such expressions as "tractored off" and "blown out of the dust bowl" have become by-words among those families who have joined the army of migratory farm laborers. This situation is aggravated by the fact that we can supply our agricultural domestic and foreign demands with 1,600,000 fewer people than in 1929, while our rural population is increasing faster than any other group. The annual net increase in farm labor is 445,000 persons who will add to the already too numerous ranks of migratory laborers, and of those on relief.

During the 1920's there was an urban-rural interchange of population of some 19,000,000 persons with the result that the rural areas lost more than 6,000,000 people. These migrants were not only from the poorer lands of the South and cutover sections of the Lake States, but were from all regions of the country. In general, the migration from the better lands was almost as great as that from the poorer land areas. Farm youths have been maturing twice as fast as would be required to maintain the number of farm operators. Impending technological improvements will further decrease the need for farm labor, making a still greater number of farm workers available for urban employment.

Rural-urban migration, thus, is a national problem. It can only be coped with through a national effort to create conditions permitting the individual to benefit not only himself but also the community that receives him, without detriment to the community he leaves.

For the solution of the urban-rural migration situation and the problems that attend it, three lines of action have been recommended: (1) raise the level of living in those areas whence the migrants come; (2) raise the standard of education in rural areas; and (3) develop an effective policy for the guidance of migration that will enable the migrant to make his fullest contribution at a minimum social cost.

THE FARM PROBLEM

Agricultural Surplus. In the economic sense an agricultural surplus constitutes that quantity of agricultural products which is not salable at prices that will cover the cost of production. An agricultural surplus does not mean that we have more food than the people of this country could consume, but more food than they can

afford to buy at a price that will pay the farmer for growing it. Tables LII and LIII show the value of our imports and exports for each year from 1936 to 1939. It is evident from our exports (which represent surplus products) that our major surplus commodities are in grains, tobacco, and cotton, with cotton constituting by far the largest in 1939.

TABLE LII¹

AGRICULTURAL PRODUCTS IMPORTED — VALUE, BY MAJOR GROUPS:
1936 TO 1939

<i>Group</i>	<i>1936</i>	<i>1937</i>	<i>1938</i>	<i>1939</i>
Agricultural imports, total	\$1,243,009	\$1,579,324	\$955,520	\$1,117,793
Commodities listed below, total . .	1,187,730	1,511,970	906,100	1,059,879
Animals and products, edible	40,604	62,318	41,116	49,380
Dairy products and eggs	18,126	18,266	12,591	13,640
Hides and skins, except reptile . . .	54,289	70,466	29,398	46,631
Animal fats, inedible	4,102	608	227	347
Grains and preparations	84,424	102,392	7,976	12,502
Fodders and feeds	12,266	16,090	3,809	11,334
Vegetables, fruits, nuts	78,095	92,487	71,248	76,313
Vegetable oils (expressed) and oil-seeds	122,324	175,342	93,228	84,159
Cocoa, coffee, tea, and spices . . .	197,891	236,350	187,930	203,231
Sugar, and related products	172,614	184,722	141,248	134,644
Beverages, excluding spirits	13,447	12,832	10,490	10,908
Crude rubber	158,732	247,521	129,542	178,054
Tobacco, unmanufactured	29,880	31,923	36,028	36,918
Cotton, unmanufactured	11,997	16,592	9,615	8,292
Wool and mohair, unmanufactured .	53,264	96,345	22,605	49,637
Raw silk	102,351	106,594	88,821	120,852
Vegetable fibers, except cotton and silk	33,325	41,123	20,229	23,037

As a consequence large surpluses have accumulated, and in the matter of real income the farmers' position has been steadily growing worse, as compared with other classes of American producers.

*Methods for Disposing of Farm Surpluses.*² Hitherto we have directed our efforts to better and more efficient means of production. Our

¹Source: U. S. Bureau of the Census, *Statistical Abstract of the United States*, 1940, U. S. Government Printing Office, Washington, D. C., 1941, p. 674.

²"Farmers in a Changing World," *Yearbook of Agriculture*, 1940, pp. 650-652.

problem now is to learn how to distribute what we have produced. Milo Perkins, Administrator for the Surplus Marketing Administration, has stated that "overproduction is the black plague of the twentieth century, and if democracy is to survive it must be wiped out."

TABLE LIII¹

AGRICULTURAL PRODUCTS EXPORTED — VALUE OF CHIEF PRODUCTS:
1935 TO 1939
(In Millions of Dollars)

<i>Products</i>	<i>1936</i>	<i>1937</i>	<i>1938</i>	<i>1939</i>
Grand total	\$709.5	\$897.5	\$827.5	\$655.1
Live animals	1.7	1.9	1.6	1.7
Meats	20.1	19.0	23.6	26.8
Eggs and dairy products	4.7	5.8	6.7	7.8
Animal fats and oils	16.3	17.9	19.5	23.0
Hides and skins	3.7	6.2	4.8	4.2
Bread grains	20.6	69.2	105.1	63.1
Coarse grains	8.0	18.2	190.4	27.0
Rice . . . . .	.7	6.4	8.4	9.2
Fodders and feeds	6.9	12.6	12.0	10.1
Vegetables	10.3	11.9	11.4	15.1
Fruits and preparations	78.5	80.0	96.1	80.9
Vegetable oils (expressed), oilseeds, and nuts	7.5	7.7	7.9	20.2
Coffee and substitutes	2.2	2.2	1.9	2.8
Sugar and related products	4.7	5.2	5.1	10.6
Seeds, except oil-seeds	1.7	2.8	2.0	2.4
Tobacco	137.3	134.5	155.7	77.4
Cotton	361.0	368.7	228.6	243.0
Wool and hair	1.9	2.9	2.5	1.6
All other	21.8	24.4	25.1	28.1

Reexports of foreign products are excluded.

Farmers have long suffered from surpluses of dairy products, poultry products, fruits, vegetables, meats. To say that we have a surplus of these commodities is another way of saying that we have a great amount of underconsumption. Millions in the low-income group would eat more if they had the means to obtain it.

To aid some 30,000,000 people whose income per family averages \$9.00 a week and to reduce surpluses, a Federal Food Stamp Plan

¹ Source: *Statistical Abstract of the United States*, 1940, p. 673.

has been inaugurated. The average income of two-thirds of our families is \$69 a month and to maintain a minimum standard of living twice this amount is required. Studies show that approximately twenty million people spend an average of \$1.00 a week per person for food at retail prices. Over half of this lower income group have been getting some form of public assistance. The stamp plan enables such a person to get a \$1.50 worth of food for each \$1.00 expenditure. This means an increase in purchasing power of 50 per cent and it is estimated that if only 20,000,000 of the lower income group were eligible for this assistance it would mean a market for over 240,000,000 pounds of butter a year, over 240,000,000 dozens of eggs, probably more than 800,000,000 pounds of pork products, and over \$80,000,000 worth of fruits, vegetables, and other surplus foods.

The stamp plan operates through the local welfare agency. Any person receiving public assistance may buy a minimum of \$1.00 worth of orange-colored stamps for each member of his family and exchange them for food at any grocery store. Those buying orange-colored stamps are entitled to half again as many blue stamps free. The blue stamps are acceptable at any grocery store but are good only for those foods classified as "surplus" by the Secretary of Agriculture.

The primary purpose of the blue stamps is to increase purchasing power. They are a supplement to local relief and local governments are not permitted to reduce their relief grants because of this aid.

The over-all purpose to be accomplished is that through the roundabout process the farmers sell their surplus to the grocer, who sells to the low-income group families, whose conditions are bettered and, finally, there has been at least a partial solution to an acute economic problem.

The stamp plan, so far, has been a success as is evidenced by careful observation of the experiment that was started in Rochester, New York, on May 16, 1939. It has since been expanded to the cotton industry and to school lunchrooms. When the then Secretary of Agriculture Wallace announced the plan, in March, 1939, he said:

: . . if this plan is fully successful, it means that the day is not far distant when all of the people of the United States will be adequately nourished. Our goal might well be to use surplus foods to end vitamin deficiency in the United States. . . .

Shortage of vitamins is in my opinion responsible for more sickness and lack of abounding joyous energy in the United States than the various kinds of preventable disease. . . . Gentlemen, it may well be that you are pioneers in one of the most significant public health movements of our time.¹

FEDERAL AID TO AGRICULTURE

The plight and welfare of the farmer have come to the attention of the Federal government partly through pressure and partly through an increasing recognition of the fact that the welfare of the farmer affects the welfare of the nation as a whole.

Early Governmental Aid to Agriculture. In 1839 the Federal government first took active steps to aid agriculture with the Congressional appropriation of \$1000 for the purpose of collecting agricultural statistics, distributing seeds, and furthering plant introduction service. From this modest beginning federal aid to agriculture has expanded until today the appropriations run into hundreds of millions of dollars annually.

"In fashioning its program, the Department had to take account of many conflicting interests. A farsighted minority demanded the pursuit of scientific studies, while the general public insisted on accomplishment of immediate economic benefit."² One of its early activities was the distribution of seeds, but notable scientific contributions were also made. The first division of the Department was the Chemistry Division (1862). Up to 1884, when the Bureau of Animal Industry was established, the Department was only a fact-finding and fact-dispensing agency. Regulation was introduced at that time to fight contagious diseases among domestic animals and to supervise meat imports and exports.

Meanwhile state agricultural experiment stations were gaining such favor that enough pressure was generated to persuade Congress to authorize (in the Hatch Bill of 1887) a national system of agricultural experimentation — the first organization of its kind in the world. By 1889, when the Department was given Cabinet status, the force of public opinion which had secured it also won for it more generous appropriations. "During the first 27 years, the Department's annual expenditures rose from \$64,000 to more than \$1,000,000. In the next five years . . . the appropriation increased from \$1,708,000 to a little over \$2,623,000."³

¹ "Farmers in a Changing World," *Yearbook of Agriculture*, 1940, p. 653.

² *Ibid.*, p. 249.

³ *Ibid.*, p. 251.

After 1890 a series of regulatory agricultural measures was enacted. These were enforced by administrative agencies including the Department of Agriculture. Public demand for some sort of action on price disparity led in 1913 to an investigation of the cost of food supplies at the farm and to the consumer, and later to the creation of an Office of Markets.

Postwar Aid. The Federal Farm Loan Act of 1916 was supplemented by the establishment in 1923 of the Federal Intermediate Credit Banks, the function of which was to furnish credit for a longer period of time than that offered by commercial banks. Many other banks and credit institutions have been created since 1923 to aid the farmers, and many of them have done excellent work in providing more adequate financing for the farmers; but such agencies did not get at the roots of the farm problem, and hence permanent recovery could not be expected from them.

The McNary-Haugen Bills, originally proposed in 1924, twice vetoed, and finally passed in 1929, created a government corporation to buy up certain farm products at a price that would return a fair profit to the producer, and that would sell the surplus abroad at whatever price it would bring. The cost of this plan was to be met by an equalization tax on the producer.

The Agricultural Marketing Act of 1929 established a Federal Farm Board "to promote the effective merchandising of agricultural commodities to interstate and foreign commerce and to place agriculture on a basis of economic equality with other industries." Congress appropriated \$500,000,000 as an operating fund for the Board to buy up surplus stocks of basic crops. These were either to be held off the market or to be sold in such a way as to raise prices. Though it recognized the importance of production control, the Act gave the Farm Board no power to achieve it. The Board's only recourse in this matter was education and exhortation. The obvious result was a piling up of surpluses that could not be sold profitably and that constituted a heavy loss for the government.

The farm situation from 1929 to 1933 is unparalleled in American history. Farm income collapsed. The farmers were in desperate straits and in some localities actually rebellious. The Republican platform in 1932 left the way open for production control, but Mr. Hoover in his acceptance speech closed it by saying "There is no relief to the farmer by extending government bureaucracy to control

his production and thus curtail his liberties. . . ."¹ The Democratic platform closed the way, but Roosevelt opened it in his Topeka speech.

Federal action especially after the election of 1932 was given new impetus by Congressional authorization of action programs. New agencies — the first of which was the Agricultural Adjustment Administration — were set up practically overnight. Programs sprang up for rural rehabilitation, for controlling soil erosion, for the purchase of farms by tenants, for flood control, and many other adjustments. These vigorous programs sometimes stepped on one another's toes. Under the early Agricultural Adjustment Administration program

a farmer would have to take some of his land out of wheat in order to qualify for a benefit payment. But under the early Resettlement Administration program he might have to put the land into wheat to qualify for a rehabilitation loan. But whether he took the land out of wheat or left it in wheat it might blow away; therefore the Soil Conservation Service might advise him to restore the land to grass.²

Farm Credit Administration. The Federal Farm Credit Act as it stands consists of a number of credit agencies like the Federal Farm Mortgage Corporation which provides funds for land-bank commissioner loans. The corporation utilizes the services of the national farm loan associations and the facilities of the Federal Land Banks, which act as its agents. The Federal Land Banks, of which there are twelve, were organized to furnish long-term amortized loans secured by first mortgages on farms. Loans made by the Federal Land Banks may not exceed 50 per cent of the value of the mortgage, nor 20 per cent of the permanent insured equipment on the farm. Loans may be made for general agricultural uses such as the purchase of land, fertilizer, livestock, and farm equipment. Other lending agencies available for various short-time specialized loans are Banks for Cooperatives, Production Credit Corporations, Emergency Crop and Feed Loans, Regional Agricultural Credit Corporations, and the Federal Credit Union System.

Federal Aid under the New Deal. The Agricultural Adjustment Act of 1933 was passed as an emergency measure, though it was hoped that its production-control and land-use features would

¹ Mitchell and Mitchell, *op. cit.*, p. 293.

² *Yearbook of Agriculture*, 1940, p. 1130.

be continued as a permanent policy. It gave the Secretary of Agriculture, through the Agricultural Adjustment Administration created by it, authority to raise the farmers' income by four main devices: (1) restriction of output and removal of surplus from the market; (2) direct payment to farmers for crop reduction; (3) levying of excise taxes on processors¹ (to get money to pay the benefits); and (4) marketing agreements between producers' cooperatives, processors, and distributors (permitted or required by government) for the purpose of raising or maintaining prices.² The whole purpose was to establish a price relationship comparable to that existing in the "base period" — the five years preceding the First World War, or from the middle of 1909 to the middle of 1914. The AAA concentrated on crop reduction. Acreage allotments were made for the basic commodities³ in order to balance supply and demand, and benefits or rentals were paid to those who cooperated. (Acceptance of the acreage allotment was voluntary.)

Crop control at first meant plowing under. In the case of wheat this was unnecessary the first year because injurious weather destroyed the crop; but 10,000,000 acres of cotton were plowed under. More than 6,000,000 swine were slaughtered in 1933, more than 12,000 acres of tobacco were plowed up; and 60,000,000 pounds of butter were purchased by the government and distributed to the relief population.⁴

The original plan to make farmer cooperation voluntary was changed in 1934 to one of compulsion in cotton and tobacco. Implementation for this compulsion was possible through the Bankhead Cotton Control Act and the Kerr-Smith Tobacco Control Act, both of which involved prohibitive taxes against production in excess of assigned quotas. These acts, however, were later declared unconstitutional.

The result of the control program was higher prices for those products in which it was effective, and an increasing interest on the

¹ These taxes, levied on the first processor of the crude commodity (and carried ultimately to the consumer), equaled the difference between the current market price and the price to which the product had to be raised in order to give the farmer the purchasing power he had enjoyed in 1910-1914.

² Mitchell and Mitchell, *op. cit.*, p. 295.

³ At first these were wheat, cotton, field corn, hogs, rice, tobacco, and milk. Later, partly through pressure by farmers, rye, flax, barley, sorghum, cattle, peanuts, sugar beets, sugar cane, and potatoes were added.

⁴ Mitchell and Mitchell, *op. cit.*, pp. 297-298.

part of farmers in benefit payments. Evasions, of course, occurred, but where they were detected some effort was made to prevent their defeating the program.

The AAA had other price-raising devices: (1) loans to farmers to permit them to hold corn and cotton off the market; (2) assistance to export; (3) diversion of products to relief and other uses; and (4) marketing agreements. To assist export the North Pacific Emergency Export Corporation was set up and financed by the AAA. Exports of wheat, flour, and cotton to China and Russia were also subsidized by the AAA, and the RFC gave China a special loan with which to buy these products.

The third method, while it did involve feeding the hungry, was largely a device for clearing products off the market, as is evidenced by the quantity of these products given over to lower-value uses. For instance, "10,000,000 square yards of cotton cloth were used for reinforcement in building highways, and 80,000 cotton mats for curing concrete."¹

Marketing agreements grew largely out of practices which had been developing for several years. In general, "processors and distributors agreed to pay producers higher prices for their goods with the understanding that production control of one sort or another would be put into effect. Frequently the agreements sought to reduce middlemen's charges and improve trade practices."² Licenses issued by the Secretary of Agriculture protected these agreements; when most of the processors and distributors had agreed to some arrangement, licenses were withheld from others unless they also adhered.

After a time processors and distributors came to doubt the Secretary's authority to compel compliance with these agreements, but the AAA contended that since intrastate price influenced interstate price, control of both was necessary. Because this device was similar to the codes set up for industry in the NRA, the Schechter decision holding the NRA unconstitutional was applied to marketing agreements and all but a few agreements (kept in force by powerful autonomous groups) were abandoned.

In 1936 the AAA was declared unconstitutional because it purported to regulate and control agricultural production, a power

¹ *Ibid.*, p. 303.

² *Ibid.*

which resided not in Congress but in the states. The processing tax also was declared void since it was part of the scheme to control production. This decision helped to shape the substitute Soil Conservation and Domestic Allotment Act of 1936 which "replaced the contracts under the original adjustment program; conditional payments replaced benefit payments; direct appropriations replaced processing taxes; and the emphasis was shifted from acreage control toward soil conservation and upbuilding."¹ Thus many provisions of the original Adjustment Act were subsumed in the new Domestic Allotment Act; the important feature — acreage control — was achieved through payments for "conservation," which amounted to taking crop land out of use.

The 1938 Agricultural Adjustment Act. The Agricultural Adjustment Act of 1938 and other measures represent to a large extent a synthesis and culmination of earlier farm legislation. The existing legislation may be considered under six major headings: (1) loans, marketing quotas, and parity payments; (2) marketing agreements; (3) the diversion of surplus production into both domestic and foreign channels, and the development of new uses for agricultural products; (4) crop insurance; (5) soil conservation, good farm management, and balanced output; and (6) miscellaneous aids to the farmer.

Loans, Marketing Quotas, and Parity Payments. All three of these measures are designed to increase the farmers' income in comparison with consumers' prices. The Agricultural Adjustment Act of 1938 provided for mandatory loans on specified commodities, with minimum rates set at 52 per cent of the parity price of the commodity. Commodity loans have become a definite part of the ever-normal granary program under which the government buys up the surplus grain in good crop years and stores it under seal for distribution in poor crop years. This was an outgrowth of the 1933 experience with loans to farmers on stored products.

The Commodity Credit Corporation was directed by the Act to make loans on cotton, corn, and wheat under supply and price conditions specified in the Act itself. Amounts, terms, and conditions of loans made by this agency on other commodities were to be determined by the Secretary of Agriculture with the approval of the Commodity Credit Corporation and the President.

¹ *Yearbook of Agriculture*, 1940, p. 317.

The marketing quota is a mechanism which seeks to limit the sales of a given commodity on the market during a given year by levying penalties on marketings in excess of the quota. This principle is based on the right of Congress to regulate interstate and foreign commerce rather than on production control. Quotas may be introduced only after two-thirds of the producers of the product have voted in a special referendum to adopt them. The procedure for determining quotas varies with the commodity, and quotas have not been proclaimed for wheat or corn. In cotton and tobacco this mechanism has proved very effective.

Parity payments under the AAA of 1938 may be made by the Secretary of Agriculture, insofar as funds are available, to producers of the five basic commodities (corn, wheat, cotton, tobacco, and rice) which, together with the farmers' income from the sale of these crops, will bring them a return approximately equal to parity price on normal production. More recently parity income has been considered a more desirable measure to achieve price stabilization. This attempts to establish the "ratio between the purchasing power of the net income per person on farms and that of the income per person not on farms that prevailed during the 5-year period August 1909-July 1914, inclusive."¹ However, the fact that incomes cannot be determined so readily or so accurately as prices reduces the usefulness of this criterion.

Marketing Agreements. The Agricultural Marketing Agreement Act of 1937 enabled farmers and distributors to establish permanent and rational marketing systems for crops. Surpluses in excess of the requirements for ordinary marketing could be handled by marketing agreements between the Federal Farm Board and farmers' cooperatives or corporations established and controlled by cooperatives.

Diversion of Surplus. The AAA of 1938 continued the Federal Surplus Commodities Corporation and established four regional laboratories for research into new uses for farm products. The former agency carries out operations for increasing domestic use of farm products. The Act also provides that 30 per cent of receipts from import duties be set aside for use in surplus removal operations.

Crop Insurance. The Federal Crop Insurance Act (Title V of the Agricultural Adjustment Act of 1938) set up the Federal Crop

¹ *Ibid.*, p. 320.

Insurance Corporation within the Department of Agriculture. With a capital stock of \$100,000,000 it was empowered to write insurance against loss in wheat yields. Crop insurance has been of public interest since the early 1920's and even private companies have attempted to enter this field. The immediate inspiration of the present law was the report of the President's Committee on Crop Insurance (1936).

Soil Conservation. Conservation of the soil has been a problem for both the government and the farmer for the last half century. Considerable research has been conducted by the government and by private agencies to find ways and means to stop soil depletion and erosion. Since 1933 the government has maintained a Soil Erosion Service whose employees demonstrate to the farmers methods of preventing erosion — forestation, contour plowing, stripping, and terracing. The maintenance of soil resources is one of the basic objectives of the AAA of 1938. As part of the conservation program large-scale projects in drainage and irrigation have been undertaken. Improvements in pump machinery and devices for measuring the amount of flow and seepage of water have placed irrigation methods on a scientific basis. The extension of electric-power lines and reduction in the cost of fuel have made it possible to bring water from distant streams and lakes. There are at present over 48,000,000 acres under Soil Conservation Service. Perhaps the major project of soil conservation undertaken was that of the dust-bowl region. Conservation of this area was accomplished by the planting of cover crops, careful attention to moisture before wheat is planted, and strip and contour plowing.

Miscellaneous Aids. The Department of Agriculture has maintained for many years various types of services to the farmers. Experiments have been made in cross-pollination and cross-breeding for the purpose of improving strains and combating diseases, and recommendations based on them have been widely disseminated. Reports of many types are issued on the culture of all kinds of crops, with directions for proper planting, cultivation, treatment in case of disease, and so forth. It has been the province of the states, however, to provide formal education on agriculture to the farmer. State legislatures have appropriated millions of dollars for experimental purposes and for the dissemination of information. There are over 500 farm journals published under the

supervision of state agricultural departments, some of which have a circulation of 500,000 or more. Some states require agriculture in the curriculum of the high schools. Both state and federal departments of agriculture conduct regular educational programs by radio.

The Rural Electrification Act, passed in 1936, is administered through the Department of Agriculture. It provides electric service for people in rural areas where private agencies have not considered it economical to extend their lines. The REA also makes loans for the building of power-distribution lines, and helps to finance the wiring of homesteads and the installation of plumbing systems. It cooperates with the Home and Farm Authority in financing electrical appliances which are purchased by the farmer. When the program is completed, over 850,000 farms and rural institutions will enjoy electrification comparable with that of urban communities.

The Farm Security Administration has made a significant contribution to health needs. With the joint cooperation of state and county authorities, the Administration has provided sanitation, medical and dental care, and hospitalization to over 100,000 low-income families. Education has been provided to many youths through the National Youth Administration, the pressing need for which can be gaged from the report of the United States National Emergency Council of 1938. This report states that "for the state of Mississippi alone there were 1500 school centers without school buildings, requiring children to attend school in lodge halls, abandoned tenant houses, country churches, and in some instances, even in cotton pens."¹

Newer Farm Problems. The foregoing discussion indicates briefly some of the major action measures designed to alleviate the plight of the farmer. There are still, however, problems that remain unsolved, the most important of which are the problem of tenancy and the problem of marginal farmers.

Tenancy. The continuing increase in farm tenancy (now 42 per cent of our farmers and in some states as high as 70 per cent) is gaining some attention through the rather roundabout medium of dealing with soil misuse, though it has previously been recognized as a problem. Tenancy reached an all-time high under the 1933

¹ *Yearbook of Agriculture*, 1940, p. 824.

crop-curtailment program, which merely changed the distribution of recovery among different groups instead of achieving total recovery. The bounties given by the Federal government for taking land out of cultivation increased the money income of many farmers, but at the same time it threw many sharecroppers into the farm-labor class which was already badly overcrowded. Share tenants and sharecroppers were not credited with any part of the bounties due them under the 1933 contract. If they received anything at all it was through the generosity of the landlord. Although the crop reduction program applied to all agricultural areas, the southern sharecroppers, tenants, and farm laborers were most adversely affected by it. Many were forced to leave their homes and join the migratory class.

The President's Committee on Tenancy in 1936 recommended that state legislatures and Congress consider extending the protections of unemployment, accident, and old-age insurance and of collective bargaining to these farm laborers where they are engaged by single employers in numbers.

The Bankhead-Jones Farm Tenant Act of 1937 authorized loans to tenant farmers, sharecroppers, and farm laborers for the purchase of farms on a forty-year mortgage basis, but the funds available were so small as to be largely limited to experimental use. The Farm Security Administration now has this function. Another approach is being made to the problem through a study of local customs and laws pertaining to leases.

The Marginal Farmer. The earlier absorption of the farm population by industry has now come almost to a halt, while the rate of natural increase of the rural population is still higher than that of the urban population. About 50 per cent of the farmers produce about 90 per cent of our commercial agricultural products; the other 50 per cent — which is likely to increase — constitutes a marginal and in part a surplus farm population which has some difficulty in earning a livelihood. The condition of these people is aggravated by times of drought and other natural disasters. This type of farmer may be considered the rural counterpart of the urban unemployed worker. Efforts to help this group have been made by the FERA, the Resettlement Administration, and more recently the Farm Security Administration.

TERMS TO BE UNDERSTOOD

scientific agriculture	off-the-farm employment
cash benefits	parity prices
cross pollination	sharecropper
dust bowl	share tenancy
Ever Normal Granary	subsidy
furnish	urbanization
hybrid seeds	village

QUESTIONS FOR DISCUSSION

1. What are the causes and the social implications of the increased mobility of our rural and urban population?
2. Do you agree that our present agricultural situation is due to the over-mechanization of agriculture? What other reasons can you suggest?
3. What reasons can you give that the development of a market in which economic adjustments are brought about by changes in volume of production, rather than by changes in price, is more beneficial to the farmer?
4. Comment on the statement that "the solution of the agricultural problems are not to be sought in widening our foreign markets, but rather in a program of a greater degree of self-sufficiency."
5. What consequences can you foresee if the various federal agencies continue to exert a greater influence on agriculture?
6. In what respect are the various governmental programs designed to deal with agricultural problems in conflict with one another?
7. To what extent are the interests of city people and of farmers identical and to what extent are they in conflict?
8. Outline a program for bringing rural standards of living more nearly on a par with urban standards.
9. Why are the problems of the farmer national problems?
10. Compare the plight of the farmer today with that of 100 years ago.

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EDUCATION AND PROTECTION OF CONSUMERS

THE CONSUMER'S PLACE IN OUR ECONOMIC SYSTEM

The consumer's problem in the United States can be better understood, if viewed in the light of the salient features of the American economic order. It has been charged that our order has overemphasized the profit motive, sometimes to the disadvantage of the consuming masses. As a result we are frequently urged to build our production upon a "use" rather than a "profit" basis. As Americans we have subscribed to the virtues of competition. The right of private property has long been sanctified in our laws. We have advocated the principle of "No government competition with business," and we have glorified American individualism in our economic and social philosophy.

The American economic system has many merits. It has achieved a remarkable organization of mass production in part through the utilization of scientific research, modern technology, and modern scientific management. We have had inventive genius, individual opportunity, and our "self-made" men. Under the present economic system the United States has become the greatest industrial nation of the world.

However, in looking at the other side of the ledger sheet, we find some limitations. There has been great waste of human and material resources, due in large part to excessive greed generated by the profit motive. We have had monopoly control in certain industries and consumers have been exploited. As Americans we are confronted with some serious paradoxes: overproduction and underconsumption; scarcity amidst abundance. For years we have concentrated upon the problem of increasing production so that consumer wants could be satisfied. But when we hear talk of overproduction, of resort to restriction of output in order to raise prices, and when we find the hopes for an abundant life thwarted by economic practices designed to result in scarcity, we are inclined

to ask: What is the real objective of any economic system? Is it not the satisfaction of as many human wants as possible? Is not consumption the end of economic activity? Has the present system functioned successfully to meet the needs of the consuming millions?

The problem of the consumer has become increasingly complicated. In pioneer days man made things primarily for his own use. He produced his own food, clothing, and other basic necessities of life. As new wants developed the consumer tended to depend upon other persons for their satisfaction. At first barter was widely used to be superseded by a money system of exchange.

During the handicraft era, the producer was principally concerned with the consumer's wants. Production was mainly for home use or for local markets. The relationship between producer and consumer was on a personal and direct basis. With the coming of modern industrialization, the picture was greatly changed. Large-scale production for a world market has brought specialization, with increasing interdependence. The connection between production and consumption has become more indirect and impersonal. As a result of this change, the buyer's control over quality and price has diminished, thus making his task more confusing and difficult.

OBSTACLES TO CONSUMER WELFARE

The position of the consumer is at best a difficult one. He is confronted with an ever increasing list of commodities from which to choose. Like Alice in Wonderland, the consumer says:

"I can't believe that."

"Can't you?" the Queen (modern salesmanship) asked in a pitying tone. "Try again: draw a large breath and shut your eyes."¹

In this country we have long cherished the idea that all we need in the economic process is free and unrestricted competition. Instead of serving the consumer, however, unrestricted competition may actually result in waste and duplication, which in turn increases the cost of the goods or services to the consumer. An example of wasteful competition is the distribution of milk to our homes. Five or six different milk companies may deliver their

¹ Stuart Chase and F. J. Schlink, *Your Money's Worth*, The Macmillan Company, New York, 1931, p. 1.

products to the homes on our street when one company could do the work more cheaply and efficiently.

Consumers must, however, also be mindful of the opposite, namely, monopoly control. Sometimes the logical outcome of competition is no competition or some form of monopoly control. Public utilities constitute natural monopolies, and if it were not for public regulation the results to the consumer might be serious. Consider as an example here the great American Telephone and Telegraph Company, probably the most complete monopoly in the United States today. Other examples of near-monopoly conditions are the building materials, aluminum, and farm-implement industries.

Another factor definitely related to consumer welfare is purchasing power. A standard of living, based upon one's accustomed use or enjoyment of necessities, comforts, and luxuries, is dependent upon income or purchasing power. Even in times of prosperity a large number of our people live below a standard of comfort. In 1929, a year marking the peak of national prosperity, nearly 6,000,000 families, or more than 21 per cent of the total, had incomes of less than \$1000. About 12,000,000 families, or more than 42 per cent, had incomes of less than \$1500.¹ A report on the national income of 1935-1936 by the National Resources Committee divides the population into three classes according to incomes:²

1. The top third income group averaged \$2959.00.
2. The second third income group averaged \$1076.00.
3. The lowest third income group averaged \$471.00.

Another task which confronts the consumer is that of making a wise selection from a large variety of goods.

He stands there confronted with vastly more choices than any previous generation of consumers had to make. There are 350,000 possible choices in a store like Macy's; and in a single city the size of Milwaukee the consumer must choose from among some 250 kinds of toothbrushes, 100 kinds of washing machines, 160 kinds of fountain pens, 50 kinds of motor oil, and so on through the long list of things he must buy. In this age of advanced fabrication he has lost the

¹ Maurice Leven, Harold G. Moulton, and Clark Warburton, *America's Capacity to Consume*, The Brookings Institution, Washington, D. C., 1934, p. 55.

² Joseph Gaer, *Consumers All*, Harcourt, Brace and Company, New York, 1940, p. 53. Figures based on National Resources Committee, *Consumer Incomes in the United States, 1935-36*, U. S. Government Printing Office, Washington, D. C., 1939.

old thumb-and-finger familiarities with silk, calico, and flour which his grandfather had. The rival makes of vacuum cleaners and electric washing machines are harder to appraise than were the brooms and the washboards of two generations ago. Synthetic materials like rayon, and slick processes like the artificial weighting of silk with tin, are less readily judged than were the silks of an earlier day. Science has discovered hosts of new and perplexing necessities for health and welfare — vitamins, intestinal flours, ultra-violet lamps, and posture furniture and educational playthings for the children.¹

High-pressure advertising confronts the consumer at many points. It is not our purpose here to analyze the detailed aspects of advertising. The least that can be said is that advertising is sometimes guilty of gross exaggeration. Frequently it represents a mere manipulation of words. A good example of this is the advertising of cigarettes by such phrases as "never get on your nerves," "are kind to your throat," and "not a cough in a carload." Too much advertising is irrelevant to the consumer's appraisal of a product. Instead of giving useful, factual information, the advertisers generally rely on the theory, "Repetition is Reputation." The use of testimonials for advertising purposes may well be questioned. "Famous Names Incorporated" with branches in New York and Hollywood will for a price get a testimonial from some well-known personage praising the merits of any product from soap to horseradish. The fee for the exclusive use of the celebrity's name is between \$150 and \$2500, depending on the star's popularity and the length of time exclusive use of the name is desired.²

High-pressure salesmanship coupled with installment buying or "easy payments" have encouraged people to buy beyond their means. Buying on credit naturally adds to the cost of the goods to the consumer, whereas "cash and carry" enables the buyer to purchase more economically.

Another handicap under which the consumer suffers is the lack of honest, reliable, and specific information concerning consumer goods and services. Even salespeople are not too well informed about the exact nature of the products they sell. Some people buy merely in terms of advertised brands or according to certain price levels, paying but little attention to the intrinsic merits of the products concerned. The average worker or salaried person is more

¹ R. S. Lynd, "The Consumer Becomes a 'Problem,'" *The Annals of the American Academy of Political and Social Science*, pp. 5-6, May, 1934.

² Stuart Chase and F. J. Schlink, *op. cit.*, pp. 24-25.

concerned with money wages than with real wages. The latter, namely, wages translated into terms of the purchasing power of money, is really more significant than money wages because it represents what the money will actually buy in goods and services.

A further disadvantage of consumers as a group is their lack of organization. Producers such as the steel industry, the oil industry, the automobile industry, the patent-medicine industry, and many others as a rule are very alert to their interests and maintain effective organizations. Trade associations are formed and often maintain lobbies for the enhancement of their interests. Consumers for the most part have suffered in comparison because of the lack of adequate organization and effective representation.

Taxation is also definitely connected with consumer welfare. In the past, many of our states have placed much dependence upon general property taxes. The recent depression, however, witnessed a general breakdown of this system of taxation and saw the widespread extension of the sales tax with its consequent burdens upon the people of small means. In 1940 the general sales tax was in effect in twenty-two states, with four states having a selective or modified form. The rates usually run from 1 to 3 per cent of gross sales. New York City and several smaller cities also have municipal sales taxes. In this same year (1940) the sales taxes (general and selective), including taxes on gasoline, liquor, and tobacco, amounted to \$1647 million, and made up 40 per cent of the total tax receipts in the states, or \$150 million more than in 1939.¹ In addition there must be considered the federal taxes on many products recently imposed in connection with defense financing.²

THE RISE OF THE CONSUMER MOVEMENT

Consumers as a whole have been slow to organize. In times of prosperity we are likely to pay but little attention to the need for consumer organization. There is the tendency for us to shape our enjoyment of goods and services to keep up with the Joneses. Workers are more concerned with the size of the pay check than with the problem of what the money will buy. When depression comes people are forced to become more consumer conscious.

¹ *Tax Administrators News*, Sept., 1940, March, 1941; a publication of the Federation of Tax Administrators, 1313 E. 60th St., Chicago.

² See Chap. XLII on Public Revenue and Taxation.

- There is then a stronger realization on our part that consumption is a vital process in everyday life. Much more attention is paid to price, quality, and consumer choices. Family budgeting is resorted to on a much wider basis to stretch the purchasing power of the dollar. As consumers, we tend to become "bargain hunters" to an increasing extent.

The publication by Stuart Chase and F. J. Schlink of *Your Money's Worth* in 1927 tended to focus attention upon consumer problems. Professor Robert S. Lynd of Columbia University calls this book "the *Uncle Tom's Cabin*" of the consumer movement. Following the widespread public interest in the subject, Messrs. Chase and Schlink opened up a consumer question service. In 1929 Consumers' Research, Inc. was organized to provide consumer information to subscribing members. Within a short time the membership grew to 5000.

In 1933 there appeared *100,000,000 Guinea Pigs*¹ which exposed the inadequacies of the Pure Food and Drug Act of 1906. In 1935 a rival consumer information service was set up, Consumers Union. By 1939 it was estimated that Consumers Union had a membership of 75,000 while Consumers' Research had 60,000. This indicates the increasing interest on the part of consumers for reliable information on goods and services. "*Consumers' Research and Consumers Union have been and are the dynamos of the consumer movement.*"² "*Consumers' Research and Consumers Union have in truth not only supplied the motive power for the entire consumer movement but they have written its philosophy and set its course of action.*"³

Businessmen can no longer afford to laugh off this movement. It is no longer limited to a few women's clubs and sewing circles here and there. The businessman has thus been forced to examine the basic causes for consumer dissatisfaction. In general the consumer claims that the manufacturer does not make what the consumer wants. Instead he makes goods and then makes the consumer want them.

¹ F. J. Schlink and Arthur Kallet, *100,000,000 Guinea Pigs*, The Vanguard Press, New York, 1933.

² "Business Week Reports to Executives on the Consumer Movement" (Number 16 of a series of special reports on current business opportunities, problems, and trends of outstanding significance. Made for executives by the editorial staff of Business Week), *Business Week*, p. 41, April 22, 1939.

³ *Ibid.*, p. 42.

Specifically, the consumer wants grading of the products offered for sale, reports based upon performance tests, and the data of the United States Bureau of Standards made available to him. The consumer feels that it is unnecessary to create demand because demand already exists. The philosophy of the consumer movement is centered around two things: (1) a resentment against advertising because it deceives the buyer; (2) a desire for lower prices and more facts.¹

The above is the form which the consumer movement has taken in the United States. On the other hand, in Europe the cooperative movement is the consumer movement.

In Finland, cooperatives do 25 per cent of the country's retail business; in England and Denmark about 15 per cent; in Sweden, 10 per cent. In the United States, co-ops do about 1.5 per cent of the total retail business . . .²

Consumer Education. Until recently little has been done to educate the American consumer. As a people we have been too individualistic, have emphasized production as against consumption, have placed faith in free competition, and have relied upon advertising. As consumers we have had a blind faith that somehow our economic system through its channels of production and distribution would serve us adequately as a matter of course.

In our schools education for intelligent buying has been a neglected field. It is true that we are all consumers irrespective of the particular occupations we follow, and yet little has been done to educate boys and girls to become intelligent consumers. Social science courses in particular have passed up a real opportunity in failing to give proper attention to this field. In the average economics text, for example, little will be found on practical consumer problems. Because of their significance to citizens as consumers, such subjects as advertising, governmental services to consumers, consumer cooperatives, home ownership, life insurance, and many others could be studied with profit to the student. Instruction in the operation of consumer cooperatives is compulsory in the Wisconsin schools. Pennsylvania schools have a consumer education program under the direction of the State Superintendent of Public Instruction.

An influential group is the American Home Economics Associa-

¹ *Ibid.* p. 43.

² *Ibid.*

tion, a national organization of teachers interested in consumer education, which was organized in 1909 and now has 12,000 members. One of its major goals is the study of textile standards. It publishes the *Journal of the Home Economics Association*.

An Institute for Consumer Education has been established at Stephens College, Columbia, Missouri, as a result of a grant by the Alfred P. Sloan Foundation. The plan calls for the study of consumer buying, testing, and other subjects of interest to consumers. An annual conference is held on consumer problems.

Women's Organizations. Women have been concerned with consumer problems inasmuch as they do 85 per cent to 90 per cent of the nation's retail buying. The largest women's organization in the country is the General Federation of Women's Clubs, with 2,000,000 members, in which a Division of Consumer Information has been established.

There are many other women's organizations promoting consumer education, such as the National League of Women Voters, the American Association of University Women, the National Federation of Business and Professional Women, the National Woman's Trade Union League, the Parent Teacher Association, and others.

Business. Businessmen have but recently made any serious attempt to provide the consumer with exact information about the goods they were selling. A number of the large stores have their own bureaus of standards for the testing of their products. Lamp manufacturers have used the IES (Illuminating Engineers Society) specifications for their product. A large grocery chain has voluntarily graded its canned goods with the threefold classification "fancy, choice, standard." The American Medical and Dental Associations have used seals of approval or acceptance for consumers. The former has rendered a public service in its campaign against dangerous drugs and quackery. Some of these activities have had a limited value but they do point to the fact that the business world will have to pay more attention to real consumer grievances if it is to prosper.

An example of an attempt on the part of business to seek consumer confidence is the Good Housekeeping Institute. Its seal of approval has been found on many articles of daily use. The Federal Trade Commission issued a complaint against Hearst Magazines, Inc., charging that one of its publications, *Good Housekeeping*, makes

false claims and misleading guarantees concerning products advertised in its pages. The complaint charged that *Good Housekeeping* operated a shopping service advertised as being a free service for the convenience of its readers. Actually the magazine received substantial commissions from the seller on all merchandise sold, amounting to 5 per cent or more of the purchase price. This service has since been discontinued. The Good Housekeeping Institute, the Good Housekeeping Bureau, and their seals of approval also were criticized by the Commission on the ground that "approved" articles had not been tested and approved by any scientific laboratory. The complaint further cited that in the case of some fifteen products false advertising was used.¹

In general some of the seals and certifications of consumer goods by business and professional groups may have some value in establishing minimum standards for the consumer. However, some of those certifications are mainly selling devices,

Consumers are tending to lose faith in those numerous seals of approval and certification agencies. The use of official grades and standards on a wide basis would be far more beneficial to consumers generally.²

The Better Business Bureau is one of the most active and useful of the agencies organized by business groups for the protection of the consumers. This is a national organization with offices in the principal cities of the United States sponsored by reputable businessmen in the community to discourage unfair business practices. Advertising in local newspapers is watched carefully. Professional shoppers are sent out to check on the advertisements. When discovered, businessmen using unfair methods are threatened with exposure unless they change their tactics. The slogans of the Better Business Bureau are "Public confidence counts most" and "Before you invest, investigate."

Testing Agencies. The two outstanding examples of consumers' agencies performing testing services are *Consumers' Research* and *Consumers Union Reports*, previously mentioned. The purposes of *Consumers Union Reports*, as stated in its charter, are

... to obtain and provide for consumers information and counsel on consumer goods and services ... to give information and assistance on all matters relating

¹ As reported by the *Chicago Daily News*, August 21, 1939.

² Helen L. Sorenson, *The Consumer Movement*, Harper & Brothers, New York, 1941, p. 55.

to the expenditure of earnings and the family income . . . to initiate and to cooperate with individuals and group efforts seeking to create and maintain decent living standards.¹

This organization issues a monthly publication and an annual *Buying Guide*. It maintains laboratories and employs technicians to make scientific analyses of many products. The information passed on to subscribing members includes recommendations as to specific products which are classified into "Best Buys," "Acceptable," and "Not Acceptable."

An interesting feature of *Consumers Union Reports* is the comment made upon the labor conditions in the specific industry under consideration. Two products may be an equally good buy at a given price but in the one case the labor conditions are not desirable, so the consumer may decide to purchase where the health, sanitary, and labor conditions are more salutary.

Consumers' Research is a similar type of organization performing much the same kind of service for its members on a fee basis through its publication *Consumers' Research*. Established in 1929, it was the first independent testing service made available to subscribing members.

Labor. Labor organizations have been of value to consumers in calling attention to the union label. A constant campaign of education is carried on by unions to impress the public with the advisability of buying union-made goods produced under fair labor conditions. Attention is called to specific industries where sweatshop conditions, child labor, low pay, and undesirable working conditions prevail. This no doubt has had some effect in improving conditions not only for the workers and their families but also for the general public.

The Government. An increasing amount of factual material bearing upon consumer problems is available through various governmental agencies and their publications. An interesting and valuable source of information is *Consumers' Guide*, published by the Consumers' Counsel Division of the United States Department of Agriculture.² The Consumers' Counsel represents the consumer at all Agricultural Adjustment Act (AAA) hearings on marketing

¹ *Consumers Union Reports*, p. 1, April, 1941.

² *Consumers' Guide*, Consumers' Counsel Division, U. S. Dept. of Agriculture, Washington, D. C. This may be had for 5 cents a copy or 50 cents a year.

agreements and publicizes changes in food supplies, prices, and advises consumers how to buy wisely. The *Guide* is sent to 135,000 homes in the country and each month finds about 5000 new requests for the publication.

Another publication of value to consumers is *Notices of Judgment under the Federal Food, Drug, and Cosmetic Act*, published under the auspices of the Federal Security Agency in cooperation with the Department of Agriculture. This lists goods seized by the government because they are impure or mislabeled. The penalty is seizure of goods or fine. This pamphlet may be had upon application. Other governmental publications may appear from time to time in connection with some specialized phase of the subject.¹

Another governmental bureau which renders service to consumers is the Consumers' Counsel in the Department of the Interior. Its main function is to represent the interests of the coal-consuming public in the bituminous field. It represents the consumers in all hearings on bituminous coal prices. Factual material is available in its *Coal Consumers' Digest*, free upon request.

There are other scattered governmental agencies which perform services that directly or indirectly affect consumers and which are too numerous to mention here. A few of these are: Bureau of Agricultural Economics; Rural Electrification Administration, Extension Service, Department of Agriculture; Bureau of Home Economics, Department of Agriculture; Food and Drug Administration; and the National Bureau of Standards, Department of Commerce. One of these agencies in particular deserves a brief word, namely, the National Bureau of Standards, Department of Commerce. This bureau was established in 1901. It

... establishes and maintains standards of measurement, of quality, or performance, and of practice; studies problems affecting large quantity or contract purchases; serves the Consumer indirectly through standardization of devices used in weighing or measuring commodities purchased by over-the-counter buyers.²

Some cities, more especially the larger ones, maintain local bureaus of standards or city-sealer offices whose function is to maintain uniform weights and measures. Scales in stores are examined for accuracy and if found to be satisfactory are certified with the proper seal. Gasoline pumps are examined to see whether the car

¹ Consult list, The Superintendent of Public Documents, Washington, D. C.

² Gaer, *op. cit.*, p. 183.

owners are getting full measure for their money. If violations are found, the offenders are usually fined and warned against repeating the short measure. The work of such agencies is very important to the citizens of the community.

There are only twelve states that have effective laws for weights and measures. New York City has 75 inspectors, which is more than the total of 17 states with three times the population. It is estimated that the average American family loses 85 cents a week in short measures, \$45 a year, or \$1½ billion for the nation. The first inspection in Los Angeles showed 51 per cent of gasoline pumps inaccurate. The American Automobile Association estimates motorists are "robbed" at pumps from coast to coast at least 20 million dollars annually.

The Pure Food and Drug Administration has an appropriation of 1.7 cents per consumer for the year to police sale of \$16 billion worth of food, drugs and cosmetics. Congress cut the requested appropriation in half.¹

The Cooperative Movement. One of the most effective means of consumer education lies in the growth of cooperatives, which is the subject of the following chapter. The movement has been making substantial progress, especially during the depression. In 1940 cooperatives

... numbered more than 11,000 with a membership of about 3,000,000, doing a business of \$500,000,000 annually. Among them are retailers, wholesalers, and producers. Some deal in food and household supplies. Others sell insurance, telephone service, gasoline, and farm products. A few provide medical care. And some are credit unions which provide loans to members at reasonable rates.²

Cooperatives make consumers conscious by definite organization and greatly aid in their education as to standards, labeling, protective legislation and other interests. One favorable result is that consumers can pool their buying power, thus achieving certain economies. In the same way minimum standards as to quality or grading can be secured.

Even when a full-fledged cooperative has not been organized, a buying club may serve as a convenient medium. A number of families who live fairly close to each other can pool their orders and in this way get somewhat lower prices through quantity purchases. The buying club is not the ideal arrangement, but frequently it does become the nucleus of a cooperative society. Many consumer cooperatives had their beginnings in this way.

¹ *Cooperative Builder*, Superior, Wisconsin, March 15, 1941.

² Gaer, *op. cit.*, p. 129.

Another effective means of education for consumers is the organization of study groups. A beginning has often been made by having a few friends or neighbors get together in one of their homes to discuss some phase of the consumer problem, among them budgeting, standards of quality, labeling, weights and measures, price-fixing, advertising, credit unions, legislative aids, governmental consumer agencies, consumer organizations, and cooperatives. Basic in any consumer-education program is the rule that study materials and group discussions should flow out of local problems. What to do about these local problems leads inevitably to a study of the public services already being performed for consumers.

CONSUMER LEGISLATION

The progress of legislation in this country for consumer protection has been slow and difficult. Legislation to protect consumers has had to overcome the individualism of the American people and their faith in the competitive process and commercial advertising. Consumers until recently were for the most part uninformed and apathetic. Producers and distributors, with their high pressure methods, lobbies, extensive advertising and political pressures, could block any effective activity by the government.

American consumers first received some protection through federal legislation in 1848, when Congress passed an act prohibiting the importation of adulterated drugs. Some years later it became illegal to bring below-standard tea into the United States. Since these laws did not interfere seriously with business interests, there was little opposition to them.¹

During the next fifty years many bills were introduced in Congress but they were primarily for the benefit of producers. Laws were passed to help the dairy farmers, the cattle raisers, the canned fish industry, and others. Protective tariff laws were passed for the benefit of manufacturers. Still other laws were passed to aid the export trade.

During this same period the states began to manifest an interest in food and drug control. Beef packers had offered dyed oleomargarine to the unsuspecting public as butter. This resulted in an increasing demand for food inspection under the control of state departments of agriculture. In the meantime a series of sensational

¹ Helen Dallas, and Maxine Enlow, *Read Your Labels*, Public Affairs Pamphlet No. 51, New York, 1941, p. 4.

events focused attention upon the national Congress which resulted in the passage of the first comprehensive food and drug act.

One of these events had to do with the scandal over "embalmed beef" which was alleged to have killed more soldiers in the Spanish-American War than were killed in battle. Some very interesting experiments were conducted by Harvey Wiley of the United States Department of Agriculture showing the bad effects of food preservatives upon health. "Pure Food" exhibits were set up in the St. Louis World's Fair of 1904. Clubwomen throughout the country were stirred into action. A constant barrage of letters and telegrams was sent to Congressmen urging the passage of a national pure food and drug act. In the meantime Upton Sinclair published his famous novel, *The Jungle*, which was an exposé of the insanitary conditions in the meat-packing industry.

In 1906 Congress passed a Pure Food and Drug Act as well as a Meat Inspection Law. President Theodore Roosevelt promptly signed them. Both laws were to be enforced by the Department of Agriculture. At first the Pure Food and Drug Act was put under the administration of Dr. Wiley in the Bureau of Chemistry; later it was given a division of its own, the Food and Drug Administration.

Pure Food and Drug Act, 1906. This act prohibits false labeling of drugs which are to be sold across state lines; but if no claims are made on the label, the Act does not apply. The Act prohibits the addition of poisonous substances to food, but the manufacturer is not required to prove that the substances he adds are safe for human consumption. The burden of proof is upon the consumer to show that the product is injurious. This is difficult, since the effects may appear slowly. Much will depend upon the administration of the law. Powers given to certain officials to make rules and regulations sometimes have the effect of nullifying the law. "Actual regulatory inspection by the Federal Government seems to be almost negligible except in the case of meat."¹ Penalties are maximum fines of \$200 for the first offense, and fines up to \$300 or imprisonment for one year, or both, for any succeeding offense. There is some value in the publicity feature of the law.

Federal Trade Commission. The Federal Trade Commission was established in 1913. Its chief purpose is to prevent unfair methods of competition in interstate commerce. Misrepresentation

¹ Kallet and Schlink, *op. cit.*, p. 14.

of goods is one of the unfair methods. Some 70 per cent of the cases coming before it involve advertising.

Clayton Antitrust Act. The Clayton Antitrust Act was adopted in 1914. This act among other things forbade interlocking directorates as a form of combination in restraint of trade. The declaration that "Labor is not a commodity" was a gain for the trade-union movement but there is little in the act of direct benefit to consumers, aside from the fact that certain forms of price discriminations made for the purpose of lessening competition were prohibited.

Robinson-Patman Act. The year 1937 saw the enactment of the Robinson-Patman bill. This Act amends section two of the Clayton Act and forbids price discriminations which injure, prevent, or destroy competition with the seller or with the buyer unless the seller who discriminates can prove that the variations are due to differences in costs of manufacture, sale, or delivery. The main purpose is to regulate quantity discounts, brokerage allowances, and advertising allowance granted by manufacturers to distributors, thus preventing large distributors from having an unfair advantage over those buying in small quantities. This law requires equal treatment of all who buy like quantities of like goods and prohibits unreasonably low prices or local discrimination destructive of competition. There is nothing in the Act which is directed against a cooperative association returning to its members the whole or any part of the net earnings or surplus resulting from its trading operations.

Wheeler-Lea Act. The Wheeler-Lea Act of 1938 broadened the authority of the Federal Trade Commission to give it the power to deal with all types of unfair commercial practices. Additional powers were granted to control unfair advertising.

New Federal Food and Drug Act. The New Federal Food and Drug Act which became a law in 1938 is considered the second major legislative effort in the history of the country to protect consumers from adulterated and misbranded foods and drugs. The 1906 law was a compromise. It was inadequate even for the consumers of that day. It was largely negative in character, prohibiting certain practices, but it did not list the positive requirements of honesty and safety in the merchandising of food and drug products. Many of its provisions were circumscribed by judicial interpretation.

In the interim since 1906 new industries have come into being which directly concern consumer welfare. Some of these industries are the vast cosmetic industry; new healing devices such as sun lamps, electric belts, and orthopedic shoes; beautifying products such as slenderizers. This has resulted in new problems of regulation in the interest of consumer welfare.

Although the new law was enacted in 1938, most of its provisions did not go into effect until June, 1939. The Act does not bar the manufacture, as such, of misbranded or adulterated goods. Enacted under the Federal government's jurisdiction over interstate commerce, it prohibits the delivery or receipt of such goods across state lines. Only within the territories of the United States and the District of Columbia is the manufacture of adulterated or misbranded products outlawed. Any such prohibition within the forty-eight states, however, is left to state legislation.

Under this act cosmetics for the first time came into the range of federal regulation. Poisonous cosmetics are barred from interstate traffic. The law does not require that the ingredients of the cosmetics be disclosed to consumers. Any food which is injurious to health is barred from interstate shipment. Further regulation of poisonous fruit sprays is also a feature. Candy is made safer for children. The laws forbid metallic trinkets and other inedible substances in confectionery.

The adulteration provisions of the law protect the consumer from insect-infested fruits and other unwholesome foods. For example, it would be illegal to ship across state lines tuna fish that had been canned in dirty fish plants. Another feature of the law is the protection afforded the consumer against food in unsafe containers, such as jams packed in pottery jars that have glazing containing lead. It is illegal to substitute foods. Horse-radish must be made with horse-radish, not with ground turnip. Artificial coloring of ice cream must be of an approved type.

Other restrictions of the law forbid misbranding of labels on food products. The label must tell the whole truth regarding its claims. Information on labels must be printed clearly so that the average person can understand it. It is against the law for foods to be offered for sale under the names of other foods. Imitations cannot be made without labeling them as such. Jam which does not contain a sufficient proportion of fruit must be labeled "Imitation Jam."

The law also provides minimum standards for products, as for example, canned tomatoes. The drained weight of the tomatoes is supposed to be at least 50 per cent of the weight of water that would be required to fill the can. There is a certain standard requirement, and the label should indicate this clearly. The canner has the choice of using the general statement, "Below Standard Quality," "Good Food," "Not High Grade"; or he may indicate exactly what is wrong with his product by using such statements as "Below Standard Quality — Poor Color."¹ Another governmental agency, namely, the Agricultural Marketing Service, has set up voluntary grade standards, such as U. S. Grade A (Fancy), U. S. Grade B (Choice), and U. S. Grade C (Standard) for canned fruits and vegetables. However, their use is not widespread.

The use of artificial coloring or preservatives in foods must be indicated on the label. If foods claim special dietary or health use, then the label must give the information to justify this. Drug labels must carry adequate directions for use and adequate warnings where the drug may be dangerous to health. Safeguards are established in the use of new preparations. A few years ago nearly 100 people were killed by "elixir of sulfanilamide" simply because a manufacturer, eager to catch a promising market, had not stopped to make certain necessary tests. New drugs intended for interstate sale must under the new law pass certain examinations before they are offered to the public.

Any law is as good as its enforcing mechanism. The heart of this new law is the seizure method. An illegal product in interstate commerce may be seized wherever it is found. A federal court decides whether the product violates the law. If it does, the product is either destroyed or returned for relabeling or reprocessing under bond to bring it in compliance with the law. Criminal penalties for violations of the law are increased. For a first offense there is a maximum fine of \$1000 and imprisonment up to one year, or both, for the guilty manufacturer or shipper. Exemption is provided for jobbers or retailers who have received products in good faith from shippers. A second offense may be punished by a fine of as much as \$10,000 or three years' imprisonment, or both.²

The government is for the first time authorized to inspect factories and other establishments producing or packing foods, drugs,

¹ *Read Your Labels*, *op. cit.*, p. 11.

² *Consumers' Guide*, p. 7, July, 1938.

and cosmetics for interstate shipment. It is estimated that the Federal government spent about $1\frac{1}{3}$ cents per citizen per year for the enforcement of the various food and drug acts during 1939.

Future Legislative Needs. Legislation has been suggested making a uniform grading system compulsory in the case of foods and canned goods which are not already covered under existing laws. Another recommendation would make the facilities of the United States Bureau of Standards now serving commerce and government available to consumers. The Secretary of Commerce through the National Bureau of Standards might be authorized to establish and publish standards of quality for consumer goods when in his judgment such standards are in the public interest. The National Bureau of Standards could be a great aid to consumers by helping to clear away some of their confused impressions created by advertising.

Another need for governmental action lies in the necessity for coordinating all of the government consumer agencies already in existence. At present there are many offices scattered through various departments and agencies. Some of them are the Consumers' Counsel Division of the Department of Agriculture; Consumers' Counsel Division of the Department of the Interior; Bureau of Agricultural Economics; Food and Drug Administration; Bureau of Home Economics, Department of Agriculture; National Bureau of Standards, Department of Commerce; Bureau of Labor Statistics, Department of Labor; Public Health Service, Treasury Department; and others.

Although some benefits have come to the consumer as a result of the legislative efforts in their behalf, the protection does not go far enough. Every time an effort is made to introduce legislation for the welfare of the consumer, a barrage of propaganda is released by organized advertisers, producers, and other pressure groups affected. Powerful lobbies work to defeat such legislation. The usual result is that such legislation is either defeated, pigeonholed, or some innocuous compromise measure is enacted under the pretense of aiding the consumers, which in reality is of little material aid.

THE CONSUMER AND THE WAR

The war has produced added problems for the American consumer. Taxes have risen sharply with the widespread adoption o

consumer sales taxes, the lowering of exemptions under the federal income tax, and the addition of numerous defense taxes. Prices on many commodities have risen, partly due to the increased demand due to war needs but also because of speculation. When the National Defense Advisory Commission was established a Consumer Division was included. The purpose of the Consumer Division is to study the military orders as fast as they are placed to find out if they will disturb the consumer markets. A weekly bulletin called *Defense* is issued by the Commission to explain its findings.

The Department of Justice recently announced an investigation into the food industry. Its purpose is to "eliminate violations of the Anti-Trust Laws, and, thereby, to reduce the expenditures of American families for food and increase the income of American farmers." The Department pointed out that more than 41 per cent of the American people are either unable or barely able to maintain a diet adequate for health, that farmers are sinking in the economic scale, that between farmers and consumers stand "close knit and powerful" industrial groups which now receive about 59 cents of every dollar the consumer spends for food. Among the foods on which illegal price manipulations have been charged are bread, milk, meat, poultry, fish, canned fruit, and cheese. Price-fixing by associations of retail grocers is also claimed.¹

Price Administration and Civilian Supply. In April, 1941, President Roosevelt signed an executive order creating the Office of Price Administration and Civilian Supply (OPACS). The general purpose is to protect consumers against unwarranted price increases, and to ensure adequate supplies of materials and commodities for civilian use. Undue profiteering in products of daily use is to be discouraged. In order to prevent the rapid inflationary trend in prices, "ceilings" on certain goods and commodities are to be established.

There is an effort to profit by our experience in the First World War, when prices rose to very high levels. Prices had begun to rise in 1916, and continued sharply for four years, ending in May, 1920, with prices 145 per cent above prewar levels. In the twenty-two months since September, 1939, wholesale prices in this country have increased 13 per cent.

To date, OPACS has depended largely upon voluntary coopera-

¹ *Consumers Union Reports*, p. 25, Jan., 1941.

tion to prevent sharp rises in prices. An analysis of price increases shows that uncontrolled commodities such as farm products, textiles, furniture, and foods have increased more rapidly than in the last war. In some fields where the Price Administrator has acted, the increases have been less. These include metals, leather, chemicals, and paper. It is claimed that OPACS needs more power to extend its regulation to wages and materials, which are the principal cost items in production, and that if this power is granted, price peaks of the First World War may be avoided.¹

Installment Sales. Recently the Federal government in order to curb buying, and thus to check inflationary tendencies, has put restrictions on installment buying. Another objective of the move is to conserve materials such as metals that go into durable goods. The action in question was the President's executive order directing the Federal Reserve Board to curb installment selling, which totals \$10,000,000,000 yearly. This is being done under authority of a Second World War statute.

The order will affect installment selling of "consumers' durable goods" such as automobiles, washing machines, refrigerators, ironers, vacuum cleaners, and other items to be listed. In general the terms of installment buying will be stricter. The terms will include the requirement of down payments where none were necessary before. In other cases the payments will be larger than formerly and the length of time the payments will run will be reduced.

The sale of homes will not be affected, nor will the sale of farms or farm machinery be included. Cash sales will also be unaffected as will installment contracts entered into before the date on which the order will go into effect.

Congress has had a price-control bill under consideration. This bill would authorize the President to fix price "ceilings" or maximum prices for commodities, and also maximum rents for homes in defense areas where rents have gone up 10 per cent or more since August 31, 1940. The bill specifies the price level of July 29, 1941, as a basic level to be considered in fixing price ceilings. This legislation would be enforced by the Office of Price Administration and Civilian Supply.

Priorities. Another phase of the defense problem which affects consumers directly is the priorities system. Consumers will find

¹ *United States News*, pp. 20-21, July 18, 1941.

that supplies of many of their customary household articles — pots, pans, washing machines, refrigerators — either will be strictly curtailed or made of substitute materials. Shortage of aluminum, zinc, rubber, and nickel supplies will have a direct bearing upon many consumer commodities. This will mean either doing without a number of products or using substitute materials.

Consumer Rationing. The United States is moving in the direction of consumer rationing. Such a plan might be used in the event that other means for dealing with the problem of shortages become inadequate. Commodities which might come under such a plan are automobiles, gasoline, radios, refrigerators, sugar, tires, vacuum cleaners, and even construction of new homes.

Consumer rationing has become an accepted part of the war economy of Europe. The main elements of the system as practiced in Britain are the “tying” of every consumer to a single retailer, and of retailers to particular wholesalers. Ration books containing coupons are issued, and these coupons permit purchases of a specified quantity of food or clothing. The reduction of quality in many articles is also likely. Consumers will have to be better buyers than ever before.

New Consumer Taxes. The present war economy in the United States touches the consumer at still another point. The federal tax bill will remind the consumer many times of the huge cost of national defense and aid to the nations resisting aggression. Individual exemptions under the income tax have been lowered. This may mean reduced standards of living particularly for the low-income groups of America. Automobiles will bear an increased tax of from $3\frac{1}{4}$ per cent to 7 per cent. There will be a new \$5.00 annual “use” tax or federal license fee on automobiles. Under this new tax bill, we are moving more and more into the direction of a general sales tax which will place a disproportionate burden upon low-income groups. It has been estimated that of the \$3,529,000,000 to be raised by new taxes, only 35 per cent, or \$1,322,000,000, will come from corporations, while 60 per cent, or more than \$2,000,000,000, will be contributed by consumers, principally in the low- and middle-income groups, through direct personal taxes and indirect commodity taxes. An insignificant 5 per cent will come from increased estate and inheritance taxes.¹

¹ *Consumers Union Reports*, pp. 217–218, Aug., 1941.

Consumers have been advised during the emergency to follow the following rules:

(1) Buy normally. Do not hoard or speculate. (2) Question price increases. Remind sellers that Army orders for civilian goods take up only a small part of the country's total output. (3) Believe in the nation's capacity to produce what the consumers need and support all efforts to get idle resources into use. (4) Be on guard against the lowering of quality in articles you buy. Insist on information on labels and from salespeople. (5) Make use of government grades wherever possible. (6) Learn about substitutes and use them when they save you money. Help conserve strategic supplies. (7) Support and use government agencies set up to help consumers. (8) Cooperate with your fellow consumers in working for the social objectives of total defense. (9) Write to the Consumers' Division, National Defense Advisory Commission, Washington, D. C., for *Consumers' Prices* and other publications of the Division.¹

It is very evident that the lot of the consumer is not a happy one under present conditions. However, with the cooperation of the Consumers' Division of the National Defense Advisory Commission, Price Administration and Civilian Supply, and the Department of Justice, aided by the vigilance of consumer groups, some measure of protection may be afforded American consumers. Beginnings have been made in consumer education and more adequate legislation. Much more remains to be done to make the American people conscious of the fact that whatever else they may be, they are also consumers. Such an awareness will ultimately lead them to recognize their problems and to utilize the facilities now at their disposal as well as to create new ones to improve their lot.

TERMS TO BE UNDERSTOOD

natural monopolies	seals of approval
grading	union label
money wages	buying club
real wages	labeling
consumer cooperative	unfair trade practices
	price ceilings

QUESTIONS FOR DISCUSSION

1. What help have you received in school to guide you in becoming a more intelligent consumer? Give your suggestions as to what more could be done.
2. What are the advantages and disadvantages of advertising from the point of view of the consumer? What could be done to improve advertising?

¹ *Defense and the Consumer*, Public Affairs Pamphlet No. 54, New York, 1941, p. 30.

3. What are the factors which have made possible a consumer movement in the United States?
4. Why are consumers difficult to organize?
5. How can consumer welfare be promoted most advantageously through: (a) individual action, (b) organization in buying groups, (c) consumer cooperatives?
6. What does your local government, your state, and your nation do to protect you as a consumer?
7. Summarize the effects of the war upon the consumer. Suggest what he can do to protect his interests.

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COOPERATIVES

THE NATURE OF COOPERATION

Some form of cooperative effort has long been known to man.

Co-operation in the sense of working together for a common result is as old as human nature. In the modern world, co-operation is the getting together of people to do their own business with their own money for their own mutual advantage. . . . A co-operative society is a voluntary union of persons, on a democratic basis, to supply its members with goods and services. It may, however, be much more than that. The co-operative organization may employ its members in producing goods, or it may sell what its members produce, or it may finance its members.¹

Dr. J. P. Warbasse, former president of the Cooperative League of the United States, states,

A co-operative society is a voluntary association in which the people organize democratically to supply their needs through mutual action, and in which the motive of production and distribution is service, not profit.²

Cooperatives, then, are based upon human need and common interests. In order to promote these interests more effectively people organize in a democratic way to provide goods or services needed by the group. The organization may take on the form of a producers' cooperative, distributors' cooperative, or a consumers' cooperative or some variation of these, to supply essential goods or services.

TYPES OF COOPERATIVES

Producers' Cooperatives. A *producers' cooperative* may take the form of a cooperative farm where a number of farmers have banded together to run one large farm. Work is shared according to the ability of each man, and the earnings are divided equally. The

¹ Gerald Richardson, *ABC of Cooperatives*, Longmans, Green and Company, New York, 1940, pp. 1-2.

² *Course of Study on Consumers Co-operation*, Department of Education, State of Minnesota, 1938.

Farm Security Administration has sponsored a few such projects as experiments.

Producers' cooperatives may be found in industry also; however, the difficulties here are much greater because they must deal with the problems of both production and distribution.¹ Workers' productive societies constitute one form of producers' cooperatives. In this country there have been a number of these organizations, chiefly in the printing trade, the graphic arts, and in the building trades. During the depression this type has grown among the unemployed workers, being generally known as "self-help cooperatives." For a time some of them received subsidies from federal relief funds.

In Europe workers' productive societies are found principally in France, Czechoslovakia, and England. The French government has long provided financial assistance for these societies. They are made up of skilled workers who have joined together to manufacture one or more articles of commerce. Capital is provided by the workers or borrowed from sympathetic supporters. The control of the societies is in the hands of the workers themselves.

The chief products in England are shoes and clothes, although there are also groups of builders, furniture makers, printers and other kinds of craftsmen. In France, besides these, there are two or three highly technical groups, one of which manufactures telephone equipment and precision instruments, another which works in the chemical field. This is a relatively small part of the co-operative movement and shows no tendency to increase. When such societies produce goods needed by consumer co-operatives there is frequently a close tie-up; the consumer groups supply part of the financing and participate in the control of the workers' productive societies, while at the same time contracting for a definite portion of the production.²

In the United States cooperatives go into production and manufacture wherever possible. This is done to maintain quality and price since it gives consumers control over every step of production and distribution. It further eliminates the profit toll all along the line — in manufacturing, wholesaling, and retailing. The co-operative wholesales have set up coffee-roasting plants, oil refineries, bakeries, printing plants, flour and feed mills.

¹ Maxwell S. Stewart, *Cooperatives in the United States*, Public Affairs Pamphlet No. 32, New York, 1941, p. 25.

² Jacob Baker, *Cooperative Enterprise*, The Vanguard Press, New York, 1937, pp. 37-38.

An outstanding and interesting example of cooperative production within recent years is the case of Nova Scotia where the fishermen own seventeen lobster canneries and five fish-processing plants. Through their cooperative effort, lobsters that a few years ago brought them 5 cents a pound now net them 20 cents. The success of this cooperative project led to an expansion into other fields of cooperative endeavor — housing, hospitalization, credit unions, and other phases.¹

Distributors' Cooperatives. Distributors' cooperatives are well developed in this country. They are very common among farmers, who have two types, namely, the *farmers' marketing society* and the *farmers' purchasing society*. The former seeks to sell farm products more efficiently and at better prices.

Farmers' cooperative marketing associations have now gained a firm foothold in the United States and are showing a remarkably healthy growth. There are 8,300 of these associations to-day, with 2½ million farmer members, doing an annual business of over \$2,000,000,000. . . . Co-operative marketing of agricultural products is a well-established economic institution in the United States. . . . In every state of the union, as well as the District of Columbia and Porto Rico, co-operative marketing associations are now in operation. . . . Commodities handled include practically every type of product grown on American farms and ranches: livestock, grain, cotton, fruits, vegetables, dairy products, eggs and poultry, wool, tobacco, rice, sugar, and many other items of lesser importance.²

Farmers organize cooperatively for the purpose of buying as well as for selling. This type of organization is the simplest, and in Europe one of the most common, varieties of cooperatives. It is called the "farmers' purchasing society" and buys seed, fertilizer, feed, and farm machinery for its members. It may begin in a very informal way, as for example, a number of farmers pooling their money to buy a carload of fertilizer, thus cutting the cost.

Distributors' cooperatives also serve urban people. An example of a nation-wide organization selling directly to individuals and clubs is Cooperative Distributors, Inc., New York. Goods are sold chiefly by mail order. Organized in 1932, its membership numbers more than 3600 individuals and 225 clubs. It maintains a testing laboratory, and has a labor committee which checks to see that concerns selling to Cooperative Distributors, Inc., maintain union standards.

¹ Bertram B. Fowler, "The Lord Help Those," *Readers' Digest*, p. 53, June, 1938.

² "Farmers in a Changing World," *Yearbook of Agriculture*, 1940, pp. 684-687.

A BRIEF HISTORY OF COOPERATION

The main emphasis in this chapter from this point on will be on consumers' cooperatives. We are all consumers and the increasing volume of literature tends to emphasize this practical phase of the cooperative movement. Farmers, while they are much concerned with the marketing aspect of cooperation, are nevertheless increasingly interested in the consumer angle of the problem.

The Consumers' co-operative movement is by no means a recent development. We find records of primitive consumers' societies as far back as 1769, when the Fenwick Weavers had such an organization near Glasgow.¹

In the early part of the nineteenth century, Robert Owen, a noted manufacturer and reformer, became interested in cooperative societies. However, these early efforts for the most part were too utopian to be successful.

The real founders of the movement are usually held to be a group of weavers who opened a store in Rochdale, England, in December, 1844. Some twenty-eight impoverished weavers decided after a strike in 1843 to organize the Equitable Society of Rochdale Pioneers. They began to save their pennies to provide the necessary capital to form a business for themselves. A year's savings netted \$140. With half their capital they rented a room and purchased a few fixtures; with the balance they bought a small stock of goods — some butter, sugar, candles, and meal. The store opened for business on December 21, 1844, in an old warehouse basement on a street called "Toad Lane." This was the beginning of a social-economic movement that was destined to spread to a large part of the civilized world.

The policies and aims of the Rochdale Society are:

(1) The establishment of a store for the sale of provisions and clothing; (2) the building of a number of houses in which those members desiring to assist each other in improving their domestic and social conditions, may reside; (3) the manufacture of such articles as the Society may determine upon, for the employment of such members as may be without employment, or who may be suffering in consequence of repeated reductions in wages; (4) the purchase of estates of land which shall be cultivated by the members when out of employment; (5) as soon as practicable, this Society shall proceed to arrange the powers of production, distribution, education, and government, in other words, to establish a self-

¹ Stewart, *op. cit.*, pp. 4-5.

supporting home colony of united interests; (6) that, for the promotion of sobriety, a Temperance Hotel be opened in one of the Society's houses as soon as convenient.¹

The Rochdale Society is not only still in existence, but it has surpassed the fondest expectations of its founders. The original shop has been restored and it now serves as a mecca for students of cooperation. It was not long before its quarters were inadequate to handle the increasing business.

After ninety years of activity, the Rochdale Society had 44,000 members and an annual business of around \$3,300,000. In all it has turned back \$19,500,000 in consumers' dividends.²

The Rochdale Principles. The Rochdale principles of consumer cooperation were worked out by the Rochdale pioneers in England almost a century ago and seem to have stood the test of time remarkably well. These principles are:

1. Membership is open to all who wish to join in good faith. No one will be barred on account of race, creed, class, or color. No compulsion or high pressure methods will be used in getting members.

2. A cooperative society is democratically controlled. Each member has one vote and no more, regardless of the number of shares he may own. Proxy voting is not allowed.

3. Interest is permitted on capital, but it may not be greater than the legal or current rate in the region where the society is located.

4. Savings are refunded to the members in proportion to their purchases, or may be used collectively for the common interests of the group. These rebates are commonly called "patronage refunds."

5. Sales are for cash at prevailing market prices.

6. The societies devote part of their earnings to educational activities and expansion.

7. The cooperative movement observes strict neutrality on political and religious questions.

8. Cooperatives will maintain fair labor conditions.

9. Cooperative societies will cooperate with each other in any venture which serves their common interests.

¹ Stuart Chase, *The Story of Toad Lane*, Cooperative League of the U. S. A., 1936, pp. 10-11.

² Stewart, *op. cit.*, p. 5.

Experience has proved that the failure of cooperatives where it has occurred has been due to the violation of one or more of these principles. Especially basic are the first four principles although a successful cooperative will also observe the others as well.

The English cooperatives set up their own wholesale society in 1863 and a banking department in 1872. The bank alone had assets of approximately \$500,000,000 in 1937, while the share capital of the retail societies totaled \$750,000,000. The retail societies handled more than \$1,250,000,000 worth of business in 1938, about 10 per cent of the total retail trade of the British Isles. They made a total savings of \$150,000,000 of which \$120,000,000 was returned to consumers in dividends or purchases.¹

Outside of England and Scotland, the cooperative movement is strongest in the Scandinavian countries, particularly Finland, Sweden, and Denmark. Substantial progress was also made in France and Germany prior to Nazi domination of these countries.

Cooperatives in the United States. Contrary to the usual impressions held by Americans, cooperation is almost as old in this country as in Europe. As early as 1798 the Shakers, a religious sect, began cooperative buying. The Workingmen's Protective Union had a store in Boston in 1845. Somewhere between seven and eight hundred consumers' cooperative societies were organized in the period previous to the Civil War, but most of these either failed or were destroyed due largely to the economic unrest of the period. Cooperatives were revived again in the 'seventies and 'eighties, but in the last decade of the nineteenth century and the early part of this century many of them were forced to disband in the face of the increasing wave of industrial expansion, although several hundred — mainly farm and nationality societies — remained. "More than nine-tenths of the existing organizations have been formed since 1920." ²

Following the end of the First World War, cooperatives took on renewed life in the form of a definitely organized movement. Farm organizations increased. Cooperative housing projects, cafeterias, and stores were established in various parts of the country. The Cooperative League of the United States of America was founded in 1916.

¹ *Ibid.*, p. 5.

² *Ibid.*, p. 11.

RECENT GROWTH OF COOPERATIVES

In the United States. The depression, besides revealing some of the defects of the economic system, as for example, its monopolistic features, revived popular interest in cooperatives. According to the latest figures (1940) there is a total of 4650 retail distributive associations with a membership of 990,000, and with an annual business of \$228,325,000. These include stores, buying clubs, petroleum associations, and others. Consumer-service associations totaled 1340 in number, with 682,000 members and a business of \$20,635,000. These associations include student cooperatives, medical, housing, funeral, electrical, telephone, credit unions, and insurance associations. If we total these figures we have 5990 associations with 167,000 members, doing a business of \$248,960,000 a year. These figures do not include producers' cooperatives.¹ (See Table LIV.) If we include retailers, wholesalers, and producers, we find that there are more than 11,000 with a membership of about 3,000,000, doing a business of about \$500,000,000.²

Present World Strength. It is impossible, under present world conditions, to obtain even approximately reliable estimates of the status of cooperatives in other parts of the world.

Cooperation is still much stronger abroad than in the United States. The International Co-operative Alliance, which includes agricultural and industrial producers' societies, agricultural credit organizations, and co-operative banks as well as the consumers' co-operatives, had affiliates with a membership of more than 70 million in thirty-eight different countries at the outbreak of the present war. It is estimated that these co-operatives do about \$20,000,000,000 worth of business annually. Five countries reported business of more than \$100,000,000 each.³

THE ORGANIZATION OF COOPERATIVES

Typical Development and Structure. In the evolution of a cooperative society certain stages of growth may be noted. Frequently these groups start out on a small scale, sometimes but twenty-five or fifty families who pool their buying. In some instances the store is located in some member's home where limited store hours are maintained. A part-time manager may be retained.

¹ *Monthly Labor Review*, 53: 650, Sept., 1941.

² Joseph Gaer, *Consumers All*, Harcourt, Brace and Company, New York, 1940, p. 129.

³ Stewart, *op. cit.*, pp. 5-6.

Frequently there is no delivery service, business being conducted on a cash and carry basis. This is referred to as the "buying club" stage of development. As the membership grows, more capital is added. By the time there are one hundred members or more, a full time store will be opened. Cooperatives avoid the high-rent districts and are usually not located in the central business districts. The organization depends upon the loyalty of its members who will patronize their store even though it does not have the most convenient location.

TABLE LIV¹

ESTIMATED NUMBER, MEMBERSHIP, AND BUSINESS OF CONSUMERS' COOPERATIVES, 1940

<i>Type of Association</i>	<i>Number of Associations</i>	<i>Membership</i>	<i>Amount of Business</i>
Retail distributive associations . . .	4,650	990,000	\$228,325,000
Stores and buying clubs	3,100	485,000	129,650,000
Petroleum associations	1,500	480,000	92,875,000
Others	50	25,000	5,800,000
Service associations	1,340	682,000	20,635,000
Associations providing rooms, meals, or both	360	40,000	750,000
Medical-care associations	30	15,750	345,000
Funeral associations	40*	32,500	200,000
Housing associations	60	3,750	2,530,000 †
Electricity associations ‡	700	575,000 §	16,650,000
Others	150	15,000	160,000
Telephone associations || . . . .	5,000	330,000	5,485,000 †
Credit unions || . . . . .	9,510*	2,816,653	302,339,864 ¶
Insurance associations	1,800	6,800,000	103,375,000

* Actual figure, not our estimate.

† Gross income.

‡ Based upon reports of Rural Electrification Administration.

§ Number of patrons.

|| 1936; data not sufficient to warrant later computation.

¶ Loans made during year.

The consumer cooperative is essentially democratic in its organization. The membership constitutes the basic source of control. They elect a board of directors, who are the policy-forming group, responsible to the membership during their terms of office. Membership meetings are usually held quarterly or semiannually, at which time there is opportunity for a discussion of the problems facing the cooperative. The Board selects the manager and dis-

¹ *Monthly Labor Review*, 53: 650, Sept., 1941.

charges him if he proves to be incompetent or unsatisfactory. Usually a constitution is adopted embodying the Rochdale Principles of Cooperation. The society in the course of time may be incorporated under the laws of the state under the Cooperative Act or the Nonprofit Act. In this case annual reports must be made to the Secretary of State. Sooner or later it becomes expedient for most cooperatives to incorporate because of the advantages over the partnership type of organization.

When a number of cooperatives in one region grow strong enough, they join together and form a central buying organization or wholesale cooperative. The wholesale cooperative buys in large quantities and passes on to consumers the savings thus gained. The regular wholesaler's profit is also saved and goes back to the local cooperatives in the form of patronage refunds. With their own wholesale establishment the consumers also have greater control over uniform packing and quality. Skilled buying experts are employed to protect the consumer interest (see Fig. 42). To help the cooperatives do a better job in each local community, the wholesale agency also maintains educational and auditing services.

In many cases the local retail cooperatives are affiliated with regional wholesale organizations.

At the close of 1940 the Co-operative League had twenty regional and national affiliated member associations. Nearly 2,200 retail societies, with 1,115,000 patron-members, are represented in the League, through membership in the regional organizations.¹

However, there is still a large number of cooperative societies not represented. As a superstructure over these regional wholesale cooperatives stands the Cooperative League, which is the movement's educational agency, and the National Cooperatives, which is the unifying agency for the business activities of the cooperatives.

Recently the cooperative movement sought a greater degree of unity through the establishment of uniform dues for member organizations on a per capita basis. Greater coordination in the movement was sought by greater cooperation between National Cooperatives and the Cooperative League. The two organizations have opened joint headquarters in Chicago and the Cooperative League opened a Washington office in 1940.

¹ Stewart, *op. cit.*, p. 12.

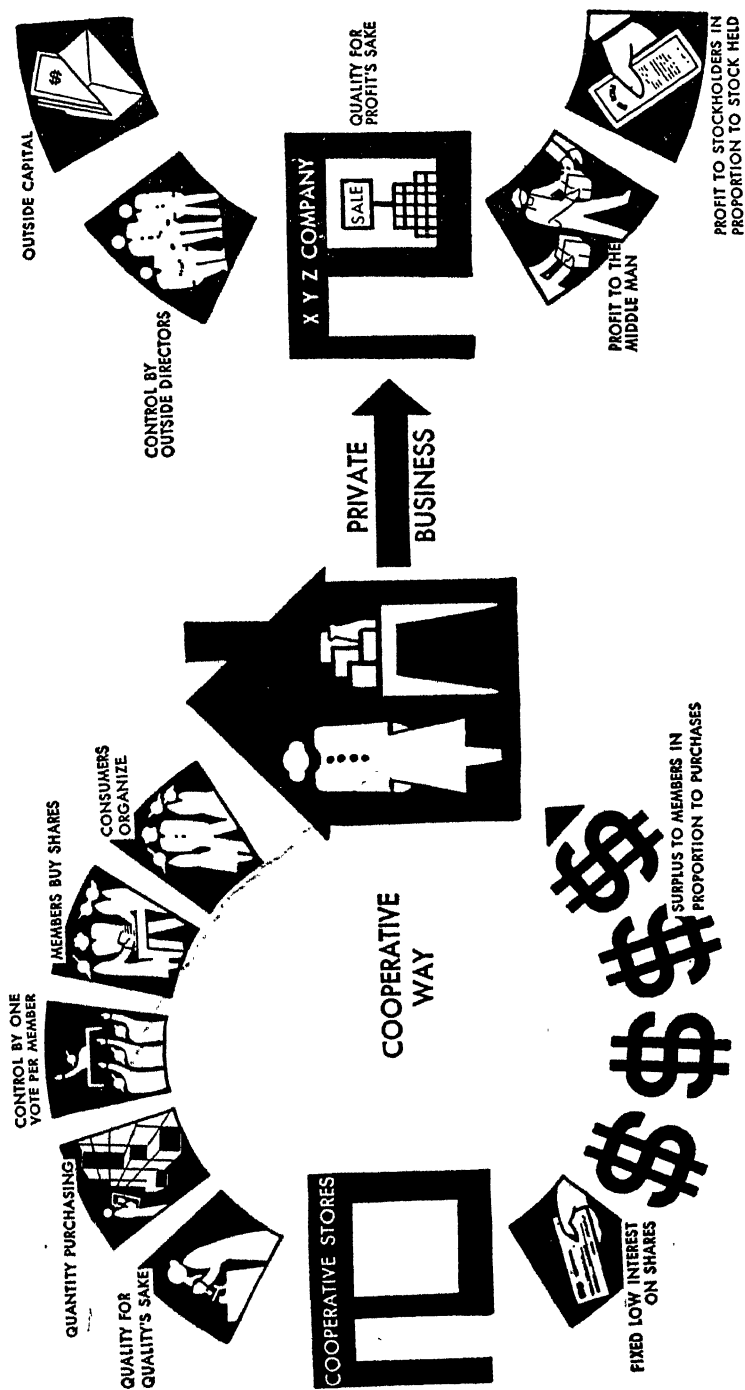


FIG. 42. A COMPARISON OF CONSUMER'S COOPERATIVES AND PRIVATE BUSINESS

From Maxwell S. Stewart, *Cooperatives in the United States: A Balance Sheet*, Public Affairs Pamphlet No. 32, 1941, pp. 16-17.
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OTHER TYPES OF COOPERATIVES

Cooperative Housing: Sweden. Today, Sweden leads the world in the field of cooperative housing. Some twenty years ago housing conditions were as bad in Sweden as they are in the United States today. Long years of agitation for slum clearance and better housing had convinced the people that the government would do little. Consequently, in 1916, the Stockholm Cooperative Housing Society, supported by the Central Labor Union, was founded. Through cooperative action slums were cleared and adequate houses built. In the course of time the state and city provided aid in the form of loans. Inasmuch as the money was handled by the cooperatives themselves, graft and waste either by politicians or contractors were avoided. Today, 15 per cent of the people of Stockholm live in cooperative homes.¹

Cooperative Housing: The United States. The largest cooperative housing projects in the United States are those sponsored by the Amalgamated Clothing Workers in New York. There are two housing associations organized by this group, namely, the Amalgamated Housing Corporation and the Amalgamated Dwellings. These organizations have 635 members who operate their own grocery, milk route, laundry, electric-power plant, and other cooperative services. In 1940 nearly \$28,000 were remitted in cash dividends to the cooperators.² The monthly average rental of Amalgamated Housing is less than \$11 per room, a relatively low rate for New York City for housing of this quality.

The true co-operative housing organization builds a house or a group of houses by pooling funds. Members share the apartments in the house, or have their own individual dwellings, the upkeep of which is covered by an amount collected monthly for that purpose. One can sell only to the co-operative organization. Taxes are paid by the central organization, funds are set aside for repairs, insurance and interest payments on mortgages.

Amalgamated Co-operative Houses in New York is such an organization. In this case a group of garment workers by their own efforts lifted themselves out of the squalor of the lower East side of New York. Paying practically the same rents that they had paid before for dingy tenements, these people have modern apartments in a fine group of homes at Van Cortland Park. To these people co-operation is something vital and real.³

¹ Bertram B. Fowler, *Consumer Cooperation in America*, The Vanguard Press, New York, 1936, pp. 238-239.

² Helen Sorenson, *The Consumer Movement*, Harper & Brothers, New York, 1941, p. 148.

³ Fowler, *op. cit.*, p. 241.

In cooperative housing the tenant does not receive a title but an indefinite lease. The house is governed by a board of directors elected by the members. If a member wishes to sell or sublet he must do so through the board. Absentee ownership and speculation are discouraged.

English Cooperatives Today. Great Britain now has 1077 retail consumers' cooperative societies, numbering 8,643,233 members.

These societies in the country where cooperation had its birth have 243,742 employees and operate 10,660 grocery stores; 5015 butcher shops; 1249 green-grocery, fruit, and fish shops; 420 dairy stores; 2101 clothing stores; 728 tailoring shops; 1236 shoe stores; 1013 furniture, hardware, jewelry, and radio shops; 259 tobacco stores; and 144 barber shops.

There is one cooperative store for every thirty stores owned by private business in England, but the cooperatives are usually larger stores. The total retail trade of the movement in 1939 was over \$1,250,000,000. Cooperatives handle the following approximate proportions of the nation's retail trade: foodstuffs, 14.1 per cent; clothing, 6.6 per cent; boots and shoes, 9.1 per cent; furniture and hardware, 3.5 per cent; coal, 13.8 per cent. The two cooperative wholesale societies, the English and the Scottish, in 1939 employed 75,033 workers.¹

Other well-known cooperative housing projects are Cooperative Homemakers, Inc., Boston; Our Cooperative House, New York City; and the Farband Housing Cooperative Association of New York. Another interesting project is Crestwood, a short distance from Madison, Wisconsin. Through the cooperative purchase of the land the members of this cooperative were able to get their building sites for about half the usual cost. The development was planned by architects to get the maximum landscape effect.² According to the 1940 figures there are 60 housing associations in the United States with 3750 members, doing a business of \$2,530,000.³

Cooperative Medicine. Cooperative health associations are spreading rapidly in the United States. In Europe they have been

¹ *The Co-operative Builder*, Superior, Wisconsin, March 8, 1941; data furnished by the International Labor Office.

² Sorenson, *op. cit.*, pp. 148-149.

³ See Table LIV.

in existence for a number of years. The usual procedure is to form a health group from a number of families in a community, perhaps 100 or more. Each family contributes a certain fee which will provide medical service for all its members.

Among the best examples of this movement are the Farmers' Union Cooperative Hospital at Elk City, Oklahoma; the Wage Earners' Health Association of St. Louis, Missouri; the San Diego Beneficial Society, California; the Cooperative Health Association at Superior, Wisconsin; the Group Health Association, Washington, D. C.; and the Group Health Cooperative, Chicago. A special Bureau of Cooperative Medicine has been set up by the Cooperative League of the U. S. A., with offices in New York City, to act as a clearing house for information and to stimulate the growth of similar projects in other sections of the country.

The Elk City, Oklahoma, project affords an illustration of the way in which cooperative medicine functions. In 1929 Dr. Michael Shadid called together a group of men in Elk City to discuss cooperative medicine. The result was the organization of America's first cooperative hospital launched by 300 members who subscribed \$50 each. For yearly dues of \$25 per family per year, the hospital provides regular examinations, treatment, surgical operations, and nursing care. The only additional fees are for anesthesia in surgical cases and medicines to take home. In seven years the membership has grown to approximately 14,000 men, women, and children. In 1936 the cooperative built a third addition to the hospital. The staff has grown to more than twenty-five. Some shortsighted medical men have attempted to destroy this undertaking by demanding that the State Medical Board revoke the license of its founder but thus far this move has not succeeded.¹

It is estimated that 2,500,000 people are sick today and every day, yet 40 per cent of these do not see a doctor. About \$3,500,000,000 are spent annually for medical care, but less than 3 per cent of this is spent for the prevention of sickness; 20 per cent of doctors' bills are never paid. Hundreds of thousands of people are faced each year with medical bills so large that they cannot possibly pay them.²

¹ Sorenson, *op. cit.*, p. 148.

² "Why Group Medicine," a pamphlet by Group Health Co-operative, Inc., Chicago.

In 1940 there were 30 medical-care associations with a membership of 15,750 and a volume of services estimated at \$345,000.¹

Group or cooperative medicine seeks to provide on a convenient, inexpensive basis the best medical care, both preventive and curative, that modern science has made possible. The group purchase of medical care is the buying of medical services by a group for its members. No single individual can predict (and consequently cannot budget) his medical expenses for a particular period. But the average annual cost per family for a large number of families can be rather accurately predicted. Under this plan each family pays this fixed average sum, regardless of the amount of service required during the year.

Some of the advantages claimed for cooperative medicine are that it (1) relieves the patient of the fear of heavy expense when medical care is needed; (2) strengthens the personal relationship between doctor and patient by removing the economic barrier; (3) does away with the doctor's dependence for his income upon his patients' being ill; (4) makes the doctor's primary function that of preventing rather than treating illness.

A development of the last few years is the plan-for-hospital-care movement. More than 7,500,000 persons are enrolled in 67 local units of what is known as the "Blue Cross plan" of hospital care in almost all of the large cities of the country. This plan, while not cooperative in the strict sense, is operated as a nonprofit enterprise and allows a large number of families and individuals to pool their financial risks of hospitalization at fixed charges.²

Credit Unions. Credit unions are cooperative associations whose function is the supplying of credit to their members. Generally they serve borrowers who can offer little or no security except personal integrity. The members contribute the capital of the credit union and thus become shareholders in the enterprise. In general these societies observe the Rochdale Principles of Cooperation except in the matter of unlimited membership. Statutes regulating these organizations usually require that the groups be formed among persons having a common bond of employment or other ties. Membership is then limited to this group.

¹ See Table LIV.

² Report of C. Rufus Rorem, director of the hospital plan division of the American Hospital Association, *Chicago Daily News*, Oct. 29, 1941.

Credit unions or "the people's banks," as they are sometimes called, are organized under either state or federal laws. Each member has one vote regardless of the number of shares of stock he may own. The members elect a board of directors, who in turn choose the officers, one of whom, the treasurer, is frequently the manager and is assisted by a credit committee who examine and pass upon applications for loans. The credit committee considers the personal integrity of the applicant and the purpose for which the loan is intended. The committee must have a unanimous vote to act. Another important committee is the supervisory committee whose function is to examine records and to have general oversight of the operations. The latter committee may suspend the officers and refer any irregularity it has discovered to the membership meeting which it may call.

The fundamentals of consumer credit are: (1) Membership is open to persons of good character who have a community of interest with the group. (2) Low membership fees, and shares of low denomination which may be paid for in installments. (3) Democracy in government, with directors and committees elected by and responsible to the members. (4) One vote per member, irrespective of the number of shares held. No voting by proxy. (5) Loans to members only. (6) Loans to directors, officers, and committee members prohibited, except in amounts held in shares by them. (7) Loans made only for productive purposes and urgent needs. (8) Loans at moderate rates of interest, and interest generally payable only on unpaid balances. (9) Net earnings returned, as dividends, on all fully paid shares of stock.¹

There are various types of credit unions, although their general principles are much the same. These are the *occupational*, *associational*, *neighborhood*, and *rural*. The occupational would be represented by schoolteachers, railway employees, workers in department stores, and others. The associational are those in organizations such as churches, labor unions, fraternal and language groups, and coöperatives. Neighborhood groups include the credit unions in the Amalgamated housing project in New York City as well as Greenbelt, Maryland, and Liberty Square, Miami, Florida (Negro). Rural credit unions are not very numerous but are likely to be organized by the local farm cooperative. The occupational and associational types are the most common credit unions in the United States.²

¹ *Monthly Labor Review*, 51: 662, Sept., 1940.

² Maxwell S. Stewart, *Credit Unions — The People's Banks*, Public Affairs Pamphlet No. 50, 1940, pp. 11-14.

The credit-union movement began about 1909 to offset the high interest rates charged by most credit agencies. The movement has made rapid progress. It weathered the depression period with but few failures. Since 1934 credit unions have been able to obtain federal charters through the Farm Credit Administration. "By 1941 there were 9300 organizations, with about three million members. Nearly 4000 of these unions had federal charters."¹ During 1940 the total loans were \$302,339,864.²

SOME ADVANTAGES OF CONSUMER COOPERATION

There are many advantages of consumer cooperation. When the customer is part owner of the store there is no incentive to sell himself inferior merchandise. The patrons can feel free, since it is their own store, to make suggestions as to the quality of brands, labeling, the appearance of the store, and other phases of the service which they receive. Another advantage lies in the fact that the cooperative movement is built from the bottom up and not from the top down. No financial oligarchy can dominate the business as in the case of chain stores and similar organizations. The principle of democracy prevails in the organization and operation of cooperative enterprises not only in theory but in practice. The membership has the ultimate power of decision in important matters of policy and organization. Regular membership meetings are held in which the common problems coming before the group are freely and openly discussed. The members, each of whom has only one vote, can pass upon matters of policy, organization, and other important matters. Frequently the board of directors first studies a problem and then refers it to the membership for final action. Cooperatives, therefore, may be viewed as proving grounds for democratic action.

The cooperative movement fosters consumer information and education. It is constantly working toward more informative labeling, protective legislation for consumers, and the elimination of unfair practices. Organized consumers are much more effective in exerting pressure upon their public officials than unorganized individuals. Nonmember consumers, too, benefit from the accomplishments of organized consumers. Thus cooperatives promote the general welfare.

¹ Maxwell S. Stewart, *Cooperatives in the United States*, op. cit., p. 23.

² See Table LIV.

Cooperation advocates a policy of fair labor standards. The movement has fewer high-priced executives than private business but endeavors to pay a living wage to the employees who do the everyday work. Reasonable hours and good working conditions are maintained. Unionization of employees is not discouraged. In these ways cooperatives may point the way to improved labor relations.

Cooperation helps to achieve a better distribution of wealth through patronage refunds and through giving the consumer more for his money. This it does without recourse to any radical program of Communism or Fascism. It still believes in the capitalistic system and tries to achieve an equitable distribution of the rewards of industry through a "middle way" program avoiding the extremes of laissez-faire individualism on the one hand and Communism on the other hand.

Finally, consumer cooperation is a way of life. People learn to work and play together more effectively and to this extent their life is made more complete and satisfying. It is sometimes surprising to see what people can do when they pool their resources — human and material — to achieve a common objective. There is a certain joy and satisfaction in working together whether it be operating a grocery store, putting on an educational program, or an evening of wholesome recreation.

COMMON CRITICISMS OF CONSUMER COOPERATION

One sometimes hears the objection that the cooperative movement is radical and European in character, unsuited to American conditions. The question might well be asked, What features of cooperatives are in conflict with the fundamental American principles of government or of economic organization? The consumer-cooperative movement accepts the American capitalistic system in the main although making some criticisms as to details. It is not a system of state socialism because the main emphasis is still upon voluntary individual participation. Evolution, rather than revolution, is stressed as a means of social progress. Peaceful, orderly methods rather than force or intimidation are basic to the plan.

Another common criticism is that cooperatives will do away with private business, especially the independent store. But it is very much to be doubted, even assuming a more rapid growth of coop-

eratives in this country, that a point will ever be reached when they will eliminate other forms of enterprise in a given field.

It is claimed by some that the cooperatives cannot get skilled executives such as the chain stores are able to employ because the former cannot pay the high salaries. It is true that in the cooperative movement there are few highly paid executives. This, however, does not mean that cooperatives are not able to get men of ability. There are compensations other than salary that attract competent executives to cooperatives.

The point is made by critics of cooperatives that the movement in this country is just a passing fad and that as soon as conditions improve the members will go back to private stores. Thus it is argued that with general prosperity the movement will automatically die. This thesis is based on the premise that consumers become economy-minded only in times of depression. It is, of course, true that consumer cooperation has made substantial strides in the depression era; however, cooperatives were established in the United States long before the advent of the great depression. As in the case of many organizations, it is at times difficult to maintain the interest and enthusiasm of the members. Mere bargain hunters may come and go with the changing economic barometer, but consumers who are convinced of the value of the long-range program of the movement are more likely to remain as interested members.

Finally, businessmen use the argument that cooperatives receive favored treatment at the hands of government, enjoying special privileges such as tax exemptions and favorable legislation from Congress and state legislative bodies. Cooperative stores are subject to social-security provisions, workmen's compensation laws, sales taxes, personal-property taxes, and other taxes. There is no permanent consumer-cooperative lobby being maintained in the state capitals or in Washington, D. C., comparable to those maintained by retailers' and manufacturers' associations.

In this connection it may be pointed out that consumers have little direct representation on important commissions or governmental agencies even where their interests are definitely involved. It was recently recommended that the consumers' cooperative movement be represented on a commission or advisory board to determine government policy on price control:

Price control if necessary should be in the hands of a commission and not in the hands of one man. That commission or board should be made up of representatives of business, labor, agriculture, women's organizations and especially consumers' cooperatives, because they have more intimate knowledge of the price situation than any other groups.¹

COOPERATIVES AND THE WAR

The present war in Europe has been a severe blow to the cooperative movement. Individual liberty, democracy, international cooperation, and good will are essential elements in consumer cooperation. The corporative state with its regimentation of the farmer, the laborer, the capitalist, and the professional man creates a condition which is irreconcilable with the spirit and purpose of consumer cooperation.

English Cooperatives. The effect of the war upon cooperatives is well illustrated in the contrasting positions of cooperation in Great Britain and Germany. Ten years ago both Great Britain and Germany had well-developed cooperative movements. Today, Britain's is much more powerful. In Germany, the movement has been crushed. Naturally, the war has hampered the British cooperatives in many ways. The government's policy of price regulation and rationing, and the difficulties in the importation of commodities, have handicapped cooperative business. Many employees have been called to the colors. The destruction of plants, warehouses, and transportation facilities has brought about disorganization.

British cooperatives, instead of incurring governmental opposition as did the cooperatives of Germany, have been granted representation on all government committees in which their interests are involved. The movement is thus not only in a position to protect its own organization, but it has exerted an influence redounding to the benefit of the general body of consumers.

Through a system of mutual aid the cooperatives that have escaped aerial bombs have come to the aid of the societies in the bombed areas. When in the course of the raids the headquarters building, the bakery, the drug warehouse, and the garage of the Coventry Cooperative (the largest food retailer in the city) was destroyed, the society's thirty-nine branches were open as usual, despite the fact that some of them lacked roofs. Neighboring

¹ Excerpts from speech of Congressman Jerry Voorhis, of California, in a coast-to-coast broadcast over the Columbia network.

cooperatives rushed in supplies of bread, canned goods, and other necessities.

The president of the London Cooperative Society, in describing the terrible bombings of London in the September, 1940, raid, said:

The clerical force continued in full swing, working on the distribution of 450,000 pounds sterling on trade rebates. Miracles of organization were performed although the telephone exchange was out of commission. In the co-op laundry, the packing room of which had been bombed during the night, the machinery was in full motion and no one appeared to be perturbed. The ovens in the bakery not only carried on the baking for the cafe, but also cooked the meat for the families of the neighborhood.¹

It is quite significant that even in wartime the membership of the English cooperatives has increased. During the first year of the war (1939) the British movement increased its membership to a total of 8,643,233. A further rise took place in 1940, bringing the total to 8,705,000. Despite the fact that some of their educational activities had to be curtailed, special wartime home-study courses have been started by the Cooperative College at Manchester.

Although the British cooperatives are supporting the war cause enthusiastically, their 1941 Congress among other things criticized the government for its "failure to adopt a comprehensive scheme of rationing to cover all foodstuffs in short supply." The return of peace will find the movement more firmly entrenched than ever.

German Cooperatives. In Germany, on the other hand, the results are not so fortunate. Prior to the Nazi regime, the German movement was one of the most successful in Europe. In 1932, the year of Hitler's ascension, the nation's two main cooperative federations had about 1200 local associations with 3,650,000 members and an annual sales volume of 1,095,000,000 reichsmarks. Even during the postwar revolution, with its collapse of the currency, and the lengthy depression, the movement continued to expand. With the inception of the Nazi movement, however, antagonism toward cooperatives was manifested. Attacks by private businessmen were fomented by the government with pressure upon members to withdraw from the societies. Later the storm troopers took up the attack. The result was a further drop in membership, a reduction in the volume of business, and the withdrawal of capital. Robert

¹"European Co-operatives and the War," *Monthly Labor Review*, 52: 909-910, April, 1941.

Ley, leader of the Nazi Labor Front, was given complete control over the consumers' cooperative movement on May 15, 1933.

Following this came a period of slow strangulation for German cooperatives. Many societies were dissolved through governmental orders; the two central federations were amalgamated and lost their cooperative character; and elected cooperative leaders were replaced by Nazi "Commissars" whom the cooperatives were forced to "elect."

In 1935 a government decree was issued providing for the dissolution of the movement and its funds as rapidly as possible. The membership fell from 3,255,000 in 1935 to 1,954,000 in 1938. In February, 1941, Ley announced a decree that resulted in the taking over of all property and assets of the cooperatives by the government. This was the end of German cooperatives under the Nazi regime.

PROBLEMS AND PROSPECTS

The cooperative movement attracts various types of individuals. Some join because it is a worthy movement to be supported — like a church or some reform movement. Others are attracted because of the possible economies in buying. Liberals use it as a common meeting place for the exchange of their mutually sympathetic ideas on social, economic, and political reforms. Some members join but buy little; still others purchase practically all of their merchandise from the cooperative store.

In building up a cooperative, much educational work is necessary in the way of membership meetings, lectures, and discussion groups. Much voluntary work will of necessity have to be done by a number of members. The managerial problem is crucial. In every organization responsibility must be delegated from membership, to board, to manager. In the last analysis, the membership is the ultimate governing force. It is, however, a mistake to refer too many details of policy back to the membership.

There is a need for constant improvement of the business to meet competition, the need for increasing membership, and additional capital to make possible the necessary equipment to render a modern, efficient, merchandising service. Many problems are of a human character. There will be disagreements and factionalism.

Consumer cooperation does not seek to do the impossible. It is

not a panacea for all the ills of modern society. It is not Socialism, Fascism, or Communism. It is a liberal movement which seeks by the practical application of common sense and the cooperative principle so to improve the present economic system that it might more efficiently serve its primary purpose of satisfying human wants in larger measure for all classes of mankind. The good features of capitalism are retained, its evils are minimized, using the democratic process. Recent years have witnessed a substantial growth in the movement in democratic countries. It is unlikely, however, that it will ever dispense with the chain or independent stores in this country. As a movement it is based upon sound, time-tested principles. As an economic and social philosophy it is "the middle way" which is thoroughly compatible with the "American way" because it is based upon the principles of democracy, individual opportunity, and the more abundant life for the many.

TERMS TO BE UNDERSTOOD

producers' cooperative	patronage refund
distributors' cooperative	buying club
consumers' cooperative	cooperative housing
Rochdale Principles	cooperative medicine
credit union	

QUESTIONS FOR DISCUSSION

1. What are the three types of cooperatives? Which of these seems to be making greater progress in the United States? Why?
2. What are the Rochdale Principles of Cooperation? Do you believe that they have as much merit today as when they were formulated in 1844?
3. Discuss the rise of cooperatives in the United States. What have been the forces promoting and discouraging the movement?
4. To what classes of people in this country does cooperation make its greatest appeal? Give your reasons.
5. It is said that cooperatives grow rapidly in time of economic depression. Do you believe that with a resumption of general prosperity the movement will decline?
6. Compare the cooperative movement in the United States with that of Europe. Why has the progress in the latter been greater?
7. What is cooperative housing? What has been its progress in the United States? In what sense is the problem of cooperative housing peculiar?
8. Evaluate cooperative medicine as a movement from the standpoint of the patient, the doctor, and society.
9. What are the functions of credit unions not performed by other financial agencies? Explain how a credit union operates.

10. What are the cooperative enterprises in your local community? Who participates in them? How did they originate? What problems and successes have they had?
11. What do you think of the future of cooperation in the United States?

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INTERNATIONAL ECONOMIC RELATIONS

International Economic Relations and Trade. There was a time, in the history of every region, when trade was local and relatively unimportant. But as transportation was improved and trade routes became safer, commerce was carried on in ever increasing volume, until today a large part of the commodities common to everyday living come from places scattered all over the world. As the volume of trade grew, the economic relationships among nations increased in variety and importance.

The Advantages of International Trade. Trade is the lifeblood of modern economic society, and the benefits of international trade are so great that it is inconceivable that a modern nation should adopt a policy of complete economic isolation. The full utilization of power machinery with its attendant specialization requires mass production, and mass production calls for very wide markets and extensive trade. To limit the market of an industry to one country would often mean reduced efficiency and higher costs. Modern peoples require for consumption and for their industries a great variety of goods: tea, coffee, cotton, rubber, petroleum, iron, manganese, aluminum, nickel, coal — a complete list would be long indeed. No country has all these products. The missing ones can be obtained only through trade. When trade flows freely, the world is prosperous and standards of living rise. When trade languishes, production lags, unemployment increases, and the world's income shrinks.

The primary advantages of international trade are three. In the first place, it not only enables a country to obtain products which cannot be produced at home at all, but it also enables it to obtain many which cannot be produced in adequate quantities. Sometimes the inability of a country to produce certain things is a matter of climate, as with tea and coffee in the United States. In other cases it is a lack of certain natural resources. Italy, for

example, has no good coal deposits, and Belgium does not have enough land to meet its demands for food.

The second advantage of international trade is that it often enables a country to get a better product than can be produced at home. This may be due to differences in climate and soil, or differences in natural resources. Sometimes, however, it is owing to the fact that the people of some foreign country have, over a long period of time, acquired certain techniques which are not easily transferred. English factories can produce finer woollens than, with a few exceptions, American factories, because they have specialized in fine woollens for many years.

A third advantage of international trade is that it often makes products available at a lower price than would be possible if they were produced at home. This increases consumer purchasing power and raises standards of living. Consider, for example, a country like Germany. It can probably raise enough food within its own borders to feed its people after a fashion. However, to attempt to do this would not only mean inadequate amounts of many foods and the complete absence of commodities like oranges, tea, and coffee, but it would also mean higher prices for such foods as could be produced. Germany has a large population relative to the amount of land available for cultivation. To raise all its food on the limited land would mean cultivating its good land more intensively, in spite of the tendency toward diminishing returns, and resorting to inferior land not really suitable for agriculture. Both methods are expensive, and result in high prices.

It is sometimes maintained that the importance of the foreign trade of the United States has been greatly exaggerated. It can be pointed out, for example, that in 1939, when total volume was fairly typical of recent years, our exports of both goods and services were only around \$4,000,000,000 and our imports somewhat less. On the other hand, the national income in 1939 was fifteen or twenty times that amount. It is apparent, therefore, that only a very small part of either our income or expenditures can have resulted directly from foreign trade transactions.

There are, however, several weaknesses in this argument. For one thing, it fails to take account of the fact that, once export industries become established, people employed in them furnish a part of the market for industries producing for domestic consump-

tion, so that if exports should decline, production and employment would also fall off in other industries. Again, it fails to recognize that a number of our imports are things that we cannot produce ourselves and that both our consumers and our factories can ill afford to get along without. Finally, in measuring the importance of our foreign trade only by its present volume, it fails to take account of the potential benefits that we might derive if we could create conditions favorable to a great expansion of this trade.

The Interdependence of Exports and Imports. In the United States, as in most countries, there is a tendency to encourage exports and discourage imports. Just as it seems plain that selling goods abroad gives profits and wages to American producers, so it seems equally plain that buying goods abroad instead of at home robs Americans of profits and wages. Actually, however, this second notion is a fallacy, because, as we shall show shortly, in the long run our ability to sell goods abroad depends upon our continuing to buy goods abroad. If we reduce imports, we reduce exports. We gain home markets for the products of some American workers, but at the expense of losing foreign markets for the products of other workers. For the whole country this cancels out, and the chief net effect is that American consumers pay higher prices or receive inferior goods.

On the other hand, if we import more, in the long run we can export more; and any decrease in the home market for American goods is offset by an increase in the foreign market. If we buy English textiles because they are cheaper than domestic textiles, and if the English buy American automobiles because they are cheaper than the home product, the consumers of both countries gain. And there is no loss in employment, because in America the smaller demand for labor in the textile industry is offset by the larger demand in the automobile industry; while in England the smaller number of automobile workers is offset by the larger number of textile workers.

Briefly, the explanation for this interdependence of exports and imports is that in the long run foreign countries can pay for what they buy only with the goods they sell. Let us illustrate as simply as possible the way in which imports pay for exports, and vice versa.

Suppose that Mr. Whatley, an English exporter of textiles, sells \$100,000 worth of broadcloth to Mr. Jones, an American importer;

and suppose further that Mr. Jones gives Mr. Whatley a promissory note for the \$100,000, payable in thirty days at a New York bank.¹ Mr. Whatley can collect this note through his London bank, which, when the note is paid, will give him English money at the prevailing rate of exchange. Meanwhile the London bank sends the note to some bank in New York in which it has a deposit. The New York bank collects the note from Mr. Jones when it falls due and credits the proceeds to the account of the bank in London.

Now let us suppose that Mr. Radcliffe, an English importer, decides to buy \$100,000 worth of automobiles from Mr. Smith, an American automobile dealer; and let us further suppose that he goes to our London bank and buys, with English money, a draft for \$100,000 payable to Mr. Smith in New York. The London bank is able to sell him this draft because it can draw it against the deposit credit which was created for it in New York when Mr. Jones, the American importer of textiles, paid his note. In other words, the \$100,000 is now available to Mr. Radcliffe, the English importer, to pay for American automobiles. Notice that in this process of offsetting imports against exports all accounts are settled without actual money crossing the ocean in either direction.

When we said that in the long run exports can be paid for only by imports we were referring to a large volume of exports continued for a number of years. To a limited extent and over shorter periods it is possible for Americans to sell to foreigners without taking payment in the form of imported goods. This can happen (1) if other countries have stocks of gold which they are willing to send us in payment, or (2) if we are willing to sell goods to them on credit. But neither gold payments nor the extension of credit can maintain a foreign market for our goods indefinitely. We already have about three-fourths of the world's monetary gold; and as to extending credit, even in times of peace American businessmen and investors are not willing to risk too much of their capital in foreign loans.

Visible and Invisible Trade. Many people, when they think of imports and exports, have in mind only material goods like wheat, pianos, or machinery. Such things constitute the visible items of trade; but to think of foreign trade as consisting of them alone is very misleading, because the so-called invisible items are

¹ Mr. Whatley would be more likely to draw a bill on Mr. Jones or Mr. Jones' bank. This would complicate our explanation a little, but would not change the result.

just as important. These latter consist of services of all sorts for which the people of one country pay those of another. For example, in normal years we pay Englishmen large amounts in freight charges for carrying American goods on English ships. Likewise, American tourists pay Englishmen, Frenchmen, Germans, and others large sums to buy hotel accommodations and railroad transportation in their countries. Such items represent purchases abroad just as truly as do imports of coffee or shoes. Another important invisible item of trade is interest received by Americans from foreign investments. This is payment for permitting foreigners to use our capital, something which is just as truly a service as their permitting us to use their hotel rooms.

So far as the visible items of trade are concerned, we normally export much more than we import. If only these had to be considered, foreigners would owe us each year a good deal more money than we would owe them. But in respect to the invisible items our imports are ordinarily much greater than our exports. Taking visible and invisible items together, in normal years there has been no great disparity between our imports and our exports. In other words, for the most part, exports have paid for imports, and our payments to other countries have been offset by their payments to us.

The Balance of Trade and the Balance of Payments. The term "balance of trade" should logically refer to the relation of our total exports to our total imports. Traditionally, however, it has referred only to physical exports and imports. When exports exceeded imports, the balance was said to be "favorable." If the reverse was true, it was said to be "unfavorable." The only reason for this usage was the mistaken belief, still quite common and once almost universal, that it is generally advantageous for a country to export more than it imports. As we have already indicated, in the long run it is impossible for a country to maintain any substantial excess of exports if both visible and invisible trade items are taken into account.¹

¹ The long-run tendency for the total imports and exports of a country to balance does not, of course, mean that exports to a particular foreign country tend to equal imports from it. Trade may flow among several countries in such a way that each of them normally has a favorable balance with certain of its neighbors and an unfavorable balance with others. Argentina, for example, ordinarily has an unfavorable balance of trade and payments with the United States, but in times of peace can maintain its purchases here because it has a favorable balance with Great Britain and some European countries.

The term "balance of payments" refers to the relation of total payments made abroad to total payments received from abroad. Most of these payments are made for material goods or for services. A small part of them, however, represent gifts, such as the remittances of immigrants to their families in the old country; and another part represents foreign loans and investments. Whatever the purpose of the payments, actual transfers of wealth from one country to another can be made only in the form of goods or gold. If by reason of an excess of imports over exports the people of a country have to make payments greater than those they receive, the balance must be met by shipping gold. The only alternative is to put off payment by obtaining foreign credits. If there were no international gifts, loans, or gold shipments, goods would always have to be paid for with goods; the value of imports in any year would have to be equal to the value of exports; and the payments received by a country from abroad would be exactly equal to the payments made abroad.

Table LV shows the principal items in the balance of payments of the United States with the rest of the world in the year 1940. Notice that our exports of goods and services considerably exceeded our imports. In other words, even taking the invisible items into account, we had a favorable balance of trade. Because of war conditions, this favorable balance was exceptionally large; so large that to meet their trade obligations to us in full foreigners would have had to send us \$1,319,000,000 in gold. Actually, however, they sent us much more. Again because of the war, unusual amounts of foreign capital were transferred to this country,¹ with the result that the net amount of gold sent here in 1940 reached the astonishing figure of \$4,744,000,000. That such gold imports are highly abnormal is at once apparent when we note that they were more than three times world production of gold in the year 1940; and that as late as 1934 the average *total* stock of monetary gold in the United States was only about \$8,000,000,000.

Though the inflow in 1940 was unprecedented, huge shipments of gold to the United States have been characteristic of all the years since 1933, and the net addition to our stocks has been about twice world production for the period. That such an inflow cannot

¹ Note especially the item of \$720,000,000 representing investments by the British government in munitions plants, and advance payments for war materials.

TABLE LV¹

BALANCE OF INTERNATIONAL PAYMENTS OF THE UNITED STATES IN 1940

<i>Item</i>	<i>Receipts from For- eigners for "Exports" (Credits)</i>	<i>Payments to For- eigners for "Imports" (Debits)</i>	<i>Net Credits (+) or Debits (-)</i>
<i>Trade and Service Items</i>			
Millions of dollars			
Merchandise	4,021	2,625	+ 1,396
Freight and shipping	223	327	- 104
Travel expenditures	81	223	- 142
Personal remittances†	30	120	- 90
Institutional contributions†		55	- 55
Interest and dividends	525	215	+ 310
Government transactions	28	122	- 94
Miscellaneous services and adjustments	164	66	+ 98
Total trade and service items	5,072	3,753	+ 1,319*
<i>Gold and Silver</i>			
Gold exports and imports	5	4,749	- 4,744
Gold earmarking operations (net)§			+ 645
Gold movements (net)			- 4,099
Silver exports and imports	4	59	- 55
Total gold and silver movements (net)			- 4,154**
<i>Capital Items (net)</i>			
Long-term capital movements			- 53
Movement of short-term banking funds			+ 873
Advance payments and capital assistance by British Government			+ 720
Miscellaneous capital items			- 170
Paper currency movements			+ 33
Total capital items			+ 1,403*
Other transactions and residual (includes unreported capital transactions and net result of errors and omissions in estimated items) || . . . . .			+ 1,432*

† Institutional contributions are really not payments for service, but gifts; and the same is largely true of personal remittances.

* Notice that if the three net credit items marked by an asterisk are added they cancel out against the net debit item marked by two asterisks. This of course simply means that total payments and receipts, taking into account trade, gold movements, capital transfers, and any residual items, must balance.

§ Earmarked gold is gold owned by foreigners, usually governments or central banks, and held for them in safekeeping. Gold sent to this country does not affect the balance of payments so long as its ownership remains foreign.

|| Writing in the *Foreign Commerce Weekly* of March 29, 1941, Hal B. Lary and Paul D. Dickens express the opinion that this item largely represents unrecorded capital movements.

¹ Source: *Foreign Commerce Weekly*, U. S. Dept. of Commerce, Bureau of Foreign and Domestic Commerce, Washington, D. C., Mar. 29, 1941.

continue is obvious. It began as a result of the devaluation of the dollar,¹ and the recovery of foreign confidence in American money and American industry following the banking crisis of 1933; and later it was stimulated by the desire of Europeans to buy war materials here or to transfer their capital to this country for safety. There is already evidence that the movement is coming to an end. Net gold imports from May 1, 1941, to September 24, 1941, were less than \$200,000,000,² or at a rate of less than \$500,000,000 a year. The explanation of this decline is to be found in the closing of European export markets, the reduction of gold stocks held by foreign countries, and the ability of Britain and her allies to get goods on credit under the Lend-Lease Act.

The Tariff. One of the devices which complicates the free interchange of goods and services between nations is the tariff system.³ A tariff is a tax, or duty, usually on an imported commodity. Tariffs may also be levied on exports, but this is much less common, and in the United States is prohibited by the federal Constitution. When tariffs are levied as a fixed charge per pound or yard, they are said to be "specific"; when they are levied as a percentage of the value of a commodity, they are said to be "ad valorem."

Tariffs for Revenue and Tariffs for Protection. A tariff generally has one of two purposes — to raise revenue or to protect the market of a domestic industry by keeping out a foreign product. To a large extent these two purposes are incompatible, because a fully protective tariff would keep the foreign product out entirely and so raise no revenue at all. In practice, however, protective tariffs are seldom high enough to exclude imports completely, and hence do raise considerable revenue. But if the chief purpose of a tariff is to raise revenue, it should not be too high; and instead of being levied

¹ See Vol. I, Chap. XVIII, pp. 478–480.

² *Federal Reserve Bulletin*, Board of Governors of the Federal Reserve System, Washington, D. C., Oct., 1941.

³ Discussion of trade controls in this chapter is limited largely to the tariff and to those restrictions growing directly out of difficulties in obtaining foreign exchange. Students interested in other types of interference with international trade, or in the "dumping" of goods abroad by private corporations, should consult the *Encyclopedia of the Social Sciences*, or a treatise like that by Culbertson, listed in the references at the end of the chapter. Among the devices of some importance for regulating trade are the following: (1) quotas on imports, as a substitute for protective tariff duties, (2) quotas on exports to aid in maintaining the prices of certain raw materials, like rubber, and (3) subsidies on exports to aid certain industries which would not be benefited by protective import duties.

on a commodity produced both at home and abroad, it should, if possible, be levied on a commodity which cannot be produced at home. This eliminates the possibility that imports and revenues may fall off because buyers turn to home producers.

Although tariffs for revenue interfere with trade to some extent, that is not their purpose; and such interference is usually kept at a minimum. Their discreet use is in no sense incompatible with a policy of free trade. Whether they represent a desirable kind of tax is another question; and we might point out that, unless they are levied chiefly on luxuries, they have the same drawback as the sales tax, namely, that their burden falls more heavily upon people of low income than upon the well-to-do. On the other hand, the only justification for a protective tariff is a belief that it is in the public interest to keep people from buying goods abroad and to force them to buy at home.

The Case against Protective Tariffs. The basic argument against protective tariffs is that, by restricting international trade, they rob us of its benefits. As we have already mentioned, through international trade we are able (1) to obtain goods abroad that cannot be produced at home, (2) to obtain goods of better quality than those produced at home, and (3) to obtain goods at lower prices than would have to be paid for the home products. Further, it should be emphasized that free admission of imports is one of the most effective ways of expanding the markets of our own industries, because it is imports that furnish foreigners with the funds with which to buy our goods.

This last point has special force in relation to American agriculture. Protective tariffs on manufactured goods do a double injury to the farmer. They not only raise the price which he must pay for the things he buys, but they also, by restricting American imports, limit the foreign demand for the things he sells. One would expect the farmers to be ardent free traders, as was actually the case with the cotton growers of the old South. Often, however, they have been as protectionist as any other group in the community and have merely demanded that the supposed benefits of the tariff be extended to their own products. But protective duties can benefit the American farmer very little, because except in the case of things like sugar and wool, we are generally exporters rather than importers of agricultural commodities.

The Argument in Favor of Protection. The advocates of protection support their point of view with a number of plausible claims. Perhaps the most effective of these is the "home-market" argument, or the contention that a tariff which keeps out foreign goods increases the market for American goods and thereby increases home profits and employment. Undoubtedly there is some truth in this if we consider only short periods of time; but, as we have already pointed out, the final result is that a home market is created for some goods at the expense of losing a foreign market for others. This loss of our foreign market comes all the faster because, when we raise our tariffs on their goods, other countries retaliate by raising their tariffs on our goods. Meanwhile, as we have seen, American consumers pay higher prices or receive inferior products.

A second argument which protectionists emphasize is that the tariff maintains the American wage level and the American standard of living by protecting our workers from having to compete with cheap foreign labor. This argument seems plausible, but a little analysis and observation robs it of most of its force. In the first place, if a tariff makes possible higher wages, it does so only by enabling a producer to sell his product at a higher price. This may benefit one group of workers, but it reduces the purchasing power and standard of living of all other workers who must buy the product. If this kind of price raising were applied to a great many industries, the general reduction in standards of living might be very serious. Moreover, if protective tariffs were the chief cause of the relatively high American wage level, one would expect to find high wages in industries in which the products were covered by such tariffs, and low wages in the others. Actually the contrary is often true. The textile industry is highly protected; yet the textile workers are one of the most poorly paid groups in this country. On the other hand, the automobile industry not only needs no protection, but is able to sell automobiles all over the world in competition with countries that have low wage levels; and yet automobile workers are one of the best paid industrial groups in the United States. The truth seems to be that our relatively high standard of living has little to do with the tariff, but results chiefly from the quality and quantity of our natural resources and our great efficiency in many fields of production.

A third defense of the protective tariff is known as the "infant-

industry" argument. Those who advance it often disclaim any wish to give *permanent* tariff protection to an industry not able to survive without it. But, they say, a small new industry in the United States cannot hope to produce at so low a cost as an old established industry abroad. Let us give it protection until it can get established and grow. Then it may be more efficient and its costs even lower than those of its foreign competitor, and tariff protection will no longer be needed. This argument has been advanced in America at one time or another in support of tariffs to protect various industries, including steel and dyes. In theory it is sound; but it is difficult to find any clear case where it has been successfully applied, that is, where an industry has been established as a result of tariff protection and then has continued successfully without such protection.¹

A final argument for protective tariffs is that they make a country more self-sufficient, and thus less dependent on foreign countries for essential commodities in time of war. This argument, too, is sound in theory and, within limits, in practice. However, anything like complete self-sufficiency is impossible. The United States could come closer to it than most nations, but we could not, for example, produce tin or coffee. Germany cannot produce tin, coffee, copper, petroleum, and many other products. She can sometimes develop substitutes, but these are generally inferior or more costly. We have already mentioned that Germany probably can produce most of her food supply, but only at a high cost. Extreme attempts to achieve self-sufficiency might actually so lower a country's standard of living as to weaken it and cause it to enter a war under great handicaps. An alternative to producing more goods at home is to build up stocks of essential materials to be drawn on in time of war.

None of the arguments, good or bad, in favor of protective tariffs seems to have had much to do with determining actual rates on particular products. A study of Congressional hearings and debates on the tariff seems to show that such rates are nearly always adopted as a result of political pressure from groups in a position to receive

¹ Possibly rayon is an example of an industry which was created by tariff protection and which later reached the stage of being more or less independent of it. See Frank W. Taussig, *Some Aspects of the Tariff Question*, Harvard University Press, Cambridge, 1931, pp. 443-444.

special benefits. The farmers of the Middle West want tariffs on Argentine beef and corn; the beet-sugar growers, and the cane growers of Louisiana, want a tariff on sugar; the textile manufacturers of New England, and now of the South as well, want tariffs on cotton and woolen fabrics; and so it goes. Congressmen, trying to please their constituents, trade votes. And by this process of political logrolling a new tariff law comes into being. Each pressure group gets what it wants and the public pays the bill.¹

While our general conclusion is that most protective tariffs are undesirable, we cannot overlook the fact that, once they have been set up and whole industries have grown and operated under their protection, to remove them suddenly would bring disaster. Great numbers of men would be thrown out of work; and even though in time other industries might expand and absorb them, this would be a slow process. If protective tariffs are to be lowered or removed, such action should be taken a little at a time, so that the necessary adjustments can be made very gradually.

Monetary Standards and International Trade. Goods are generally paid for in terms of money, but in international trade the buyer uses one kind of money and the seller another, so that the price which the one pays and the other receives depends in part on the exchange rates between their two currencies. Fluctuating exchange rates are a serious handicap to trade, because they increase the risk and uncertainty involved in each transaction.

As was explained in an earlier chapter, only very small variations in exchange rates can take place between gold-standard currencies. On the other hand, in a free market there is no definite limit to the fluctuations that can occur between paper currencies.² Today the countries of the world are on paper standards, but because of the war there is no free market. Belligerents and neutrals alike have resorted to one method or another of fixing or "pegging" foreign exchange, and rates are permitted to vary only as a matter of expediency or necessity. Gold is still the international medium of exchange, in the sense that it is the one thing which the people of every country are willing to take in unlimited amounts in settle-

¹ For an account of the circumstances attending the passage of various tariff acts see Frank W. Taussig, *Tariff History of the United States*, G. P. Putnam's Sons, New York, 1931. Professor Taussig, a leading authority on the tariff, was for two years chairman of the United States Tariff Commission.

² See Vol. I, Chap. XVIII, pp. 476-477.

ment of trade balances. But this does not keep exchange rates stable, because often the price of gold itself fluctuates in terms of the various paper currencies. The dollar, however, has been kept at a stable price in terms of gold ever since January, 1934.¹

So long as the war lasts and the world's economy is thoroughly disrupted, any stabilization of exchange rates on a permanent basis is out of the question. But assuming that, when the war is over, trade relations can be reestablished on something like a "normal" basis, how then might exchange rates be generally stabilized? There are at least two conceivable ways: (1) to reestablish the gold standard throughout the world; (2) to replace national paper standards with a single international paper currency. Either method would require a high degree of cooperation among nations. Many people think the first would be possible, but that the second is a utopian dream. Actually, however, even to reestablish a world gold standard on a basis that would have any chance of permanency would be tremendously difficult. From time to time crises would be almost sure to arise which would force various countries to resort to paper again.²

We have mentioned that today foreign exchange rates between paper currencies are being pegged. Sometimes a country can peg exchange rates independently; more often it must do so in cooperation with others. In the long run, however, such controls involve great difficulties. Either rates must be changed from time to time, or the government must finally resort to direct regulation of exports and imports, especially the latter.

Exchange Controls and Barter Agreements. We shall not attempt to deal with the various types of trade restrictions which the war has brought. Many of these are undoubtedly temporary, and have political and military rather than economic objectives. But the most rigid trade restrictions in force just before the present war were those in the totalitarian countries, especially Germany.

In 1931, during the depression, Germany found itself unable to meet its foreign obligations. It was unwilling to go off the gold standard openly and permit exchange depreciation because of its disastrous experience with inflation in 1923. Yet its gold and credit

¹ See Vol. I, Chap. XVIII, pp. 478-480, for a discussion of the relation of the dollar to gold.

² See *ibid.*, pp. 475-478, for a discussion of the gold standard.

resources were nearly exhausted, and essential imports of food and raw materials had to be paid for. About the only foreign funds available to pay for such imports were receipts from abroad for a greatly reduced volume of German exports. To conserve these funds a system of exchange control was instituted.

Under this system, which was much elaborated after Hitler came into power, the German government sees to it that any foreign funds which come into the hands of Germans are used only to pay for war materials or other imports which it deems essential. Exporters must sell their foreign balances to the government at a more or less arbitrary rate of exchange. Importers must buy foreign funds from the government at prices which vary according to the nature of the goods imported. The more essential the goods, the lower the exchange rate. Nothing can be imported, nor can any payment be made abroad, without government approval. There is no such thing as freedom of trade.

Although the German system of restricting imports and foreign payments is intended to give priority to pressing needs, it has probably considerably reduced exports, and thus reduced Germany's net ability to buy goods abroad. To meet this difficulty, the Nazis have negotiated so-called barter agreements with countries which are willing to make them. Under such an arrangement the German government undertakes to see that some other country is furnished with a certain quantity of industrial products in return for agreeing to provide Germany with certain amounts of food and raw materials. These exchanges are not barter in the sense that no money values are attached to the goods. They are barter only in the sense that specific exports are made contingent on specific imports, and that the payments involved are canceled out directly, so that no foreign funds are required. The prices, time of delivery, and other terms are all arranged in advance.

Obviously such government-controlled barter agreements constitute a serious interference with the freedom of individuals and corporations to buy and sell. Obviously, too, in the hands of a dictatorship, the power to refuse trade on any other basis is an effective economic and political weapon, especially against smaller countries. Further, it is unlikely that agreements of this type result in as great a total volume of trade as there would be if individuals were permitted to buy and sell freely. However, they have one

merit. They make it very plain that imports pay for exports, and exports for imports. When trade is carried on independently by individuals and corporations, this is just as true in the long run, but it is not so easy to see. Consequently, governments have often followed the absurd policy of keeping foreign goods out with higher and higher tariff duties, while at the same time making great efforts to expand foreign markets.

Freeing International Trade from Restrictions. Despite the obvious advantages of international trade, many restrictions have been placed upon it. Broadly speaking, these restrictions can be accounted for by a combination of five factors: (1) ignorance of the part which international trade plays in raising standards of living, and of the mutual benefits which arise from it; (2) difficulties of meeting foreign payments and maintaining exchange rates; (3) the fact that, though trade restriction seldom serves the public welfare, it often benefits powerful special interests; (4) the spirit of nationalism with its jealousies, rivalries, and frictions; and (5) the danger of war, which makes nations hesitate, if they can avoid it, to depend on foreign supplies of important products.

If trade could flow freely and securely throughout the world, every country would be more prosperous. Business depressions would be less severe. There would be less talk of war and of "have-not" countries, because every country would have full access to the raw materials of the world through the normal channels of trade. There is, of course, no prospect of the early attainment of such an ideal situation. On the contrary, since the recent military successes of Germany it seems more remote than ever, because it is likely that, while the present dictatorships retain power, the countries under their influence will continue a policy of rigid government regulation of trade through exchange controls and barter agreements. Nevertheless, it is still worth while to ask what changes are needed to free the flow of world trade.

The answer is fourfold: (1) education of the public everywhere to understand the benefits of international trade, thus bringing public opinion to bear against those special interest groups who seek to restrict it; (2) some workable plan for stabilizing exchange rates and at the same time maintaining a free market for the purchase and sale of foreign funds; (3) some sort of effective international organization to prevent war, so that nations will feel less need

of striving for self-sufficiency; and (4) better feeling among nations, and willingness to cooperate in improving trade relations. Such cooperation might include not only the lowering of positive trade barriers like tariffs, but also the regulation or dissolution of international monopolies (cartels)¹ and the setting up and enforcement of fair trade practices and minimum labor standards.

International Trade, Spheres of Influence, and Colonies.

Colonies are territories over which a country has direct political control. "Spheres of influence" are areas not nominally under a given country's control, but in which it claims special economic rights, or in which it is recognized by other countries as having a "special interest." For example, Japan, long before occupying Manchuria with troops, claimed a sphere of influence there. In such an area a country expects to obtain preference for its nationals in such matters as financing and building railroads, exploiting natural resources, and carrying on trade.

In colonies, various kinds of economic discrimination may be practiced against all but nationals of the mother country. In the sixteenth century Spain and Portugal excluded all foreigners from colonial trade. In modern times colonial policies are much more liberal, but such discriminations in favor of nationals as preferential tariffs and special freight rates are common. Even Great Britain, which in the last century has generally followed the open-door policy of giving all nationals equal access to colonial markets, modified this policy after the First World War and, in cooperation with the free dominions, built up a system of preferential tariffs within the empire.

There has been much careless talk about the economic benefits of colonies to the mother country. Often writers speak as if a country, by annexing a colony, had enriched its own citizens to the full extent of the colony's wealth, in spite of the fact that everyone knows that the same groups who own the wealth of a colony before annexation own it afterwards unless it is purchased from them.² Again, it is not infrequently implied that the total money value of

¹ See footnote on p. 17 concerning the nature of a cartel.

² It should be noted, however, that the Nazis seem to have developed special techniques for "buying" property in occupied territories at no cost to themselves. They simply print a special issue of paper money for an invaded country, make it legal tender, and use it for their purchases. This is, of course, only confiscation streamlined.

colonial trade is a net addition to the wealth of a nation, and further, that this addition results from the possession of the colonies. The obvious truth is that trade, however essential, is merely an *exchange* of wealth; and that trade with territories not under national control may be just as profitable as trade with one's own colonies.

Contrary to much popular opinion, it is probable that most colonies are an economic burden rather than an asset. They may bring real profits to small groups in the mother country, but any increase in national income resulting from them is usually more than offset by the costs of administration and defense. And although the colonial relationship favors trade with the mother country, it is interesting to note that there is not a nation in the world which normally carries on the greater part of its trade with territories under its political control.¹

International Trade and War. Before the outbreak of the Second World War there was much discussion about the need of the have-not countries, especially Germany, Italy, and Japan, for raw materials. Compared with the other great powers, all three of these countries were poor in natural resources under their political control. Frequently it was argued that if they were not allowed to acquire their share of colonies by peaceful means, they would have to fight for them to avoid economic strangulation. This was a useful argument for the imperialists of each nation because it seemed to put economic necessity on their side. But the argument is not so strong as it appears, because the have-not nations can obtain the raw materials of the world by the same means as every other nation, namely, trade.

To be sure, if other nations set up trade barriers restricting the export of certain raw materials whose production they control, then a nation which must import these is at a real disadvantage. In most cases, however, there are a number of sources of supply of any given product. Or again, if countries generally set up tariffs which cut down the exports of other countries, the nation poor in

¹ In 1937 and 1938 about two-fifths of the imports and about one-half of the exports of Great Britain were accounted for by its colonies, *including the free dominions*. But if we do not count the free dominions as colonies, scarcely one-fifth of British trade was colonial. In the case of the Netherlands, a small country with large and prosperous colonies, only about one-eighth of its trade was with its colonies in the period 1938-1939. These rough approximations are based on figures in the *Statesman's Year Book*, 1941.

raw materials suffers most. It has greater difficulty in getting sufficient foreign exchange to buy the things essential to its economic life; and, if the situation becomes serious enough, there may be a popular demand for territorial expansion through war. It follows that a considerable degree of freedom of trade, and the assurance of its continuance, is one of the most important conditions to the permanent maintenance of world peace.

Of course the economic reasons given for war are not always the real reasons. More often, perhaps, the latter are a desire for empire, a seeking for power, or a longing for national glory. Trade problems and trade rivalries may be a source of ill-feeling between nations, but no nation whose leaders were in their senses would ever as a business venture start war on another country of anywhere near the same military power. Experience shows that the costs of modern wars are nearly always many times any possible economic gains. This is well illustrated by the First World War and the Japanese-Chinese "incident." It probably will be equally well illustrated by the Second World War.

We may well doubt that the German expansion which brought on the present conflict was motivated by considerations primarily economic. Practically all the worries of Germany over raw materials, before the present conflict began, arose out of the determination of the Nazis to prepare for war. Germany could have bought plenty of food and plenty of materials for its peace-time industries if it had not insisted on sacrificing such imports in favor of supplies for its armament industries. To get Polish or Rumanian or Ukrainian wheat, it did not need political control in times of peace. But if a nation is determined to wipe out "humiliation" and exalt its "race" by a career of conquest, then it must have absolute control of all essential food supplies and raw materials in order to wage war.

The Relation of Foreign Investment to Foreign Trade. Foreign loans¹ and investments, whether made privately or by a government, necessitate making payments abroad; and, as we have seen, such payments in the long run must be made principally in goods. In other words, a capital-exporting nation must maintain an excess of exports over imports. But just as it is true that large-scale foreign loans and investments must take the form of goods, so it is true that they must in time be repaid in goods; and any country

¹ In the broad sense of the term, "investment" includes all loans.

that expects to get its foreign investments back or to receive a steady flow of interest, dividends, and profits from them, must ultimately be willing to import more than it exports. If it is not willing to do this, but instead sets up tariffs and other barriers to keep foreign products out, it is unwittingly doing its best to prevent repayment and to force its foreign debtors to default.¹

Types of Foreign Investment. Foreign investments are of many kinds. Broadly speaking, private foreign investments may be divided into three classes: (1) properties abroad to which Americans hold title, (2) stockholdings of Americans in foreign corporations, and (3) claims of Americans as creditors against foreign individuals, corporations, and governments. The first class would include foreign plants owned directly by American corporations. The third class would include not only securities, like government and corporate bonds, but also direct loans, such as the credits which exporters extend to foreign buyers.

Foreign investments may also be classified on the basis of the period of time for which they are made. First, there are the short-term credits that generally run for a year or less. Such credits may be extended by banks in the form of loans to foreign banks or business houses; or they may be extended by exporters to foreign importers. In most cases banks and business houses cooperate in granting or obtaining them. Second, there are long-term foreign commitments, investments in the narrow sense of the word. These include stocks, corporation and government bonds, and property directly owned by American citizens or corporations.

No discussion of foreign investment would be complete without some mention of loans by one government to another. Such inter-governmental loans are usually extended for long periods of time, and are made, not for monetary profit, but for reasons of national policy. Everyone is familiar with the Lend-Lease Act, under which we are leasing or lending war materials to Britain. Everyone, too, is familiar with the loans which the United States made to the Allies during and just after the First World War. But government loans are made even in time of peace. With certain European governments it has long been a practice to extend credits abroad, sometimes to increase trade, but more often for frankly political reasons. In recent years the United States has more and more been following

¹ This will be illustrated in the discussion of war debts and reparations.

a similar policy. Through the Export-Import Bank our government has extended loans to many countries, including Finland, China, and a number of South American republics.

The International Money Market. A place where people get together to borrow and lend funds is called a "money market." It is hardly accurate, however, to speak of the international money market as a place. It would be nearer the truth to think of it as all the individuals, industrial corporations, banks, and other institutions, here and abroad, which are engaged in foreign borrowing or lending. Nevertheless, it is customary to speak of the few great centers in which such credit transactions are concentrated as international money markets; and of all such centers, by far the most important is London.

Many things have made London the great world money market. In the seventeenth century the foundations were laid for the English colonial empire, and gradually England became a great trading nation. In the eighteenth century England went through the industrial revolution, long before any other nation, and so laid the foundation that made her in the nineteenth century the most powerful, the most fully industrialized, and for a time perhaps the richest nation in the world. In the twentieth century other countries have been gaining on England in the race for wealth and power, but London still remains the world's most important center of trade and finance. There one finds the great insurance companies, acceptance houses, mercantile firms, and banks which carry on or finance a large part of the trade of the world.

Debtor and Creditor Relationships between Countries. In old established countries, where savings have been accumulating for generations, funds available for lending are large, and the opportunities for employing them are limited. In new and developing countries the contrary condition prevails. Therefore, when international conditions are stable, there tends to be a constant flow of funds from the older to the newer countries; and this is reflected in an excess of exports for the former and of imports for the latter. However, such a situation is only temporary. In time a borrowing country will have large interest payments to make; its needs for foreign capital will decline; and it may even begin to repay the principal. As a result the flow of funds is reversed, and the excess of imports is replaced by an excess of exports.

Many examples could be cited of the effects on trade of foreign borrowing and lending. Before 1914, in the years when it was absorbing large amounts of foreign capital, Canada developed a very substantial excess of imports over exports.¹ During the First World War, when our own government was making foreign loans to the tune of billions of dollars, the United States developed a very large excess of exports. All of our huge advances to the Allies, made originally in the form of deposit credits at American banks, were taken out of the country in the form of goods. Until the present war, England represented still another kind of situation. Her people for generations had invested so much abroad that finally the interest payments they received each year exceeded the amount of new investments they were making. The result was that England normally had an excess of imports.

Up to the First World War the United States was a debtor nation. All through the nineteenth and into the twentieth century we had need of capital to develop our great natural resources. As a result interest rates were high, and Europeans were induced to make large investments here. Under normal conditions this situation would have changed gradually as our more urgent needs for capital became satisfied; but the coming of war brought a sudden reversal. Many Europeans were obliged to sell their American investments to our own citizens; and not only our government but our citizens as well lent vast sums to the Allies. Even after the war, during the prosperous period of the 'twenties, American individuals, corporations, and banks continued to lend or invest in Europe at the rate of \$1,000,000,000 or so a year.

At the present time there is no doubt that the rest of the world nominally owes us much more than we owe it. But just what our real position is in this respect no one can say with certainty, because so many loans and other investments made before the depression have depreciated or become worthless. In 1937 the total foreign investments of the United States, government and private, were estimated at about \$26,000,000,000.² However, about \$13,000,-

¹ See Jacob Viner, *Canada's Balance of International Indebtedness*, Harvard University Press, Cambridge, 1924, Chap. 11.

² For the information and estimates on which the figures in this paragraph are based, see Paul F. Gemmill and Ralph H. Blodgett, *Current Economic Problems*, pp. 334-335; and Raymond T. Bye and William W. Hewett, *Applied Economics*, 3rd ed. rev., pp. 380-381.

000,000, or half, represented loans of our government to the Allies during and after the First World War, and it is safe to assume that almost none of this will ever be collected. Of the \$13,000,000,000 of privately owned investments, a substantial part was very much depreciated. Against this nominal \$13,000,000,000 of private investments of Americans abroad there was an offset of over \$8,000,000,000 of foreign investments in this country,¹ so that our theoretical net balance of good claims over debts was probably considerably less than \$5,000,000,000.

Since 1937 there has been no significant increase in our foreign holdings. On the contrary, the war and other recent developments have brought further substantial losses. There has, however, been a marked "flight of capital" from Europe to the United States as individuals, corporations, and governments have transferred their wealth to this country for safety.

Recently there has been some reversal of this movement. The British government took over many American securities held by its nationals, and sold some of them in the American market to get dollars to pay in part for materials it had ordered before the Lend-Lease Act took effect. But before the sale of the securities was completed the RFC (Reconstruction Finance Corporation) lent the British sufficient funds to meet their remaining obligations in this country, taking some of the unsold British-owned securities as collateral. Further, anticipating the orders of the American government "freezing" Axis property,² there was a considerable withdrawal of German, Italian, and Japanese funds.

Problems of Foreign Lending and Investing. Foreign investment has always involved problems and risks absent in domestic investment. There is the greater distance involved; the need for making and receiving payments in foreign money, with the possibility of fluctuations in exchange rates; the difference in language to be bridged; differences in laws; and sometimes suspicion or dislike of foreigners, and the risk that the government cannot be relied on to enforce contracts. In addition, new and special problems have been created by the First World War, the depression, and the

¹ But under our laws we could not simply confiscate these foreign investments here to offset what was due us from abroad.

² A "freezing" order against the nationals of a foreign country prevents them from withdrawing funds from American banks, or transferring property, or removing it from the country except by special license.

unrest in the world preceding the present war. In the following paragraphs we shall discuss briefly some of the more important of these foreign investment problems.

Movements of Uneasy Money. A problem of capital movement more or less peculiar to the period since 1929 is the large-scale shifting of "uneasy money" from one country to another. In the early years of the great depression foreign bank deposits and short-term loans would be withdrawn from a country on a large scale if it was feared that that country would go off the gold standard. Since large net withdrawals of foreign funds in a short period of time can be made only in gold, they tend to force a country off the gold standard if its reserves are inadequate. England was forced off in this way in 1931. In more recent years large-scale withdrawals of funds have been in response to fears of war. The only desirable remedy for these movements of uneasy money would seem to be the reestablishment of international confidence.

Government Protection of Foreign Investments. Another foreign investment problem is the extent to which a government should attempt to protect private investments abroad. In the past, protection of the property rights of citizens has often been the reason or pretext for military intervention by strong countries in weak countries. Sometimes this has been followed up by outright annexation. But determination to use force to protect the property rights of citizens in a strong foreign country might lead to a disastrous war. Although it is not easy to say just how far a government should go in giving citizens this kind of protection, public sentiment in the United States seems to be that people who invest abroad should do so at their own risk and expect no more help from their government than can be given through diplomatic channels.

Private Loans to Belligerents. One of the problems which a neutral country faces in time of war is whether to permit loans to belligerents. For the government itself to lend to a belligerent is certainly not compatible with an attitude of genuine neutrality. On the other hand, is there anything unneutral in permitting private agencies to make such loans, provided they are free to make them to all the warring nations? Certainly there is nothing in international law to forbid them. But such loans, even though theoretically open to all, are likely in fact to give an advantage to one side. For example, before the United States entered the First

World War, the Allies borrowed large sums in this country by selling bond issues through American investment banking houses. Germany, on the other hand, borrowed very little. Even if she could have arranged the loans, they would have been of little value, because she could not have bought American supplies and brought them through the allied blockade.

There seems little reason to believe that loans made to the Allies through our bankers were an important factor in bringing us into the First World War; but many people believe that they were,¹ and such a belief accounted for the insertion of the "cash-and-carry" provision in our neutrality laws. Under this provision we could sell warring nations munitions if they transported them in their own ships and paid for them on delivery, but American citizens and corporations were not permitted to make loans to belligerents or to extend credit for purchases. This prohibition of loans became, of course, a matter of small consequence after the passage of the Lend-Lease Act, under which the United States government itself furnished the British and their allies with war materials.

War Debts and Reparations. The loans which the United States government made to the Allies after our entry into the First World War totaled some twelve to thirteen billion dollars. At the time they were made there was much sentiment in this country for making them gifts, and officials of the United States seem to have approached the English and French to get their reactions to the idea. The English and French governments, however, preferred to accept them as loans. After the war, matters changed. The warm feeling between us and our Allies cooled. England, France, and the other borrowing nations were faced with heavy internal war debts and the problems of reconstruction. In time public opinion in these countries began to oppose repayment, while in America the public became more and more firmly convinced that the debts ought to be met. However, it must be admitted that we ourselves did everything we could to make payment difficult by putting our tariff rates higher than ever before in order to keep imports out.

Various attempts were made in the years following the war to settle the question of war debts. Finally agreements were reached

¹ For the point of view that American bankers dragged the United States into the First World War to protect their loans to the Allies, see Ferdinand Lundberg, *America's 60 Families*, New York, 1937.

with the chief debtors, England, France, and Italy, greatly scaling down the total amount of the debts and spreading payment over a long period of years. Under these agreements some installments were paid, but they were stopped during the depression; and it now seems very unlikely that we shall ever recover any great part of the money involved. Nevertheless, these war debts continued to have an important influence on our national policy until some time after the outbreak of the present war. They were the cause of some of the opposition to our giving more vigorous aid to the British and the French in the early stages of hostilities.

The problem of German reparations to the Allies was closely bound up with that of Allied payments to the United States. The Allies in the first place forced Germany to agree to very large reparations for war damage.¹ Germany was perhaps unable and certainly unwilling to make these payments, and in spite of reprisal and threats of reprisal, kept falling behind. But not all the fault was with the Germans. The Allies themselves, especially the French, made payment as difficult as possible. They did just what the United States did, namely, kept out imports by tariffs and other trade barriers. The French argued, however, that they could not pay the United States unless the Germans paid them. In time, by a series of agreements, most notably the Dawes and Young plans, German reparations payments were reduced. Finally, during the depression, they were stopped by the Hoover moratorium; and with the accession of Hitler to power all chance of their resumption was ended.

The Future of Foreign Investment. The coming of the great depression brought uncertainty to all investors, but the holder of foreign securities was often in a worse position than the owner of domestic obligations. The international money market was thrown into confusion. Corporations suffered losses and were unable to pay interest or principal on foreign-held bonds. Governments had trouble in meeting their budgets, and some of them defaulted. Extreme nationalism flourished; and when this was accompanied by extensive plans for socialization of land and industry, as in

¹The Reparations Commission on April 27, 1921, fixed Germany's reparations liability at 132,000,000,000 gold marks, or about \$31,500,000,000. Annual payments were to be 2,000,000,000 gold marks plus 26 per cent of German exports. See James W. Angell, "Reparations," *Encyclopedia of the Social Sciences*, The Macmillan Company, New York, 1935.

Mexico, respect for private property declined, and investments of foreigners were seized without adequate compensation. In countries like Germany and Italy investments became insecure because of more and more rigid regulation of industry by government, and because of exchange restrictions which made it hard to take funds out of the country. All these difficulties and uncertainties, added to general business depression, reduced foreign lending and investing to a low level. Later, threats of war checked any revival; and finally the war itself brought almost complete stagnation of normal capital movements.

The revival of international lending and investing is something to be greatly desired. It would make possible the more rapid development of backward countries, and, by contributing to the recovery of trade, would raise world standards of living. But now that we are in the midst of a new world war, the future of the international investment market is more uncertain than ever. To make predictions would be very rash. Only this much can be said: The revival of foreign investment is tied up with the revival of foreign trade; and any great expansion of either must await the coming of some fair degree of international confidence, cooperation, and security.

TERMS TO BE UNDERSTOOD

visible trade	money market
invisible trade	pegging exchange rates
balance of trade	exchange control
favorable balance	barter agreement
unfavorable balance	sphere of influence
balance of payments	open door
protective tariff	international money market
revenue tariff	freezing order
debtor country	uneasy money
creditor country	reparations

QUESTIONS FOR DISCUSSION

1. Are there any international economic relationships that do not depend on trade?
2. What are the advantages of international trade? What are its disadvantages?
3. Exports depend on imports and vice versa. Why is this true?
4. Is it more desirable for a country to build up its visible or its invisible trade?
5. In what ways can a country meet an excess of foreign payments over foreign receipts? Can it meet such an excess indefinitely?

6. State and evaluate the principal arguments for protective tariffs.
7. Why are stable exchange rates desirable? How might they be attained?
8. Under what conditions is it necessary or desirable to ship gold from one country to another? Why has so much gold been shipped to the United States in recent years?
9. How, in general, would you explain the widespread existence of trade barriers in the face of the fact that a free flow of trade would be advantageous to all countries?
10. What conditions must be met before it will be possible to free international trade from existing restrictions?
11. How are foreign loans and investments related to trade?
12. What are the economic advantages and disadvantages of colonies?
13. Must populous industrial countries, with inadequate resources at home, possess colonies to "live"?
14. How are policies with respect to international trade related to war?
15. What are the principal types of foreign loans and investments?
16. Did the First World War make the United States a debtor or a creditor country? What is our status in this respect now? Explain.
17. Should a government protect the foreign investments of its citizens?
18. In time of war, should citizens of a neutral country be allowed to make loans to belligerents?
19. Why was the United States unable to collect the First World War debts?
20. What are the principal conditions necessary to the revival of international lending and investing?

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PART IV
GOVERNMENT AND SOCIAL PROBLEMS

POLITICAL PARTIES

THE NATURE OF POLITICAL PARTIES

Importance of Parties in a Democratic System. A political party is an organization of citizens who are more or less like-minded on certain basic economic or social issues and are desirous of having candidates elected to public office in harmony with these views. In a totalitarian country where the state, represented by the dictator, is supreme, there is but one legal party. It is the function of this sole party to register the will of the dictator. Under these conditions party government does not exist. On the other hand, parties are essential in a democracy.

Despite the fact that some of the activities of parties have not always been commendable, it is difficult to visualize the operation of a democracy without some form of party organization. The foundation of democracy lies in the people who find in the party a convenient vehicle for the expression of ideas and opinions concerning the controversial economic, social, and political problems of the day. The party functions to educate and to organize public opinion on these important problems. The party also becomes a convenient rallying point around which to organize the voters. The party supplies the needed machinery to give effect to the popular will. It is a false assumption to believe that candidates for public office will come forward voluntarily to present themselves. The party provides a distinct service in setting up the necessary mechanism to secure candidates for the various positions to be filled.

The political party becomes an important agency in the control of government. That party which is victorious at the polls takes over control of the government under a mandate from the people. Thus the party in power will have to assume the responsibility for the success or failure of the public services. The party is also the chief instrumentality through which the average citizen can exert any influence upon the formulation of public policy or its execution.

The party imparts a competitive principle to governmental activities, which is highly desirable in a democracy. It will also serve to unify the diverse elements in a democratic society and act as a source of mediation between the government and the individual. Last, but not least, the party will supply a coordinating, unifying element so that the whole mechanism of government will not work at cross purposes. The many diverse elements in a democratic society are assimilated by the party through the cultivated feelings of political fraternity and loyalty to the country.

Importance of Parties in the United States. Although there is no mention of political parties in the federal Constitution, party government in the United States began with the adoption of our basic law in 1789. As a matter of fact, parties on a local scale appeared during the Colonial period. There was a good deal of criticism of these groups and they were denounced as "cliques," "factions," and "cabals." With the establishment of the Constitution, parties assumed national importance.

In the early days of the Republic, the founding fathers were inclined to be fearful of political parties. President Washington was concerned with the growing "spirit of party" in his farewell address. Other leaders, among them Franklin and Jefferson, were also concerned with the possible evils growing out of party government. It was not long, however, before the American people and their leaders saw that parties were inevitable. After all, despite the somewhat violent altercations between the opposing groups, parties did not seem to undermine the stability of the government.

The struggle over the adoption of the Constitution afforded an opportunity for political differences between those who favored the new organization and those who were afraid of too much governmental centralization. Shortly the two parties, the Federalist and Antifederalist, appeared in bold relief. These two parties differed on the basic issues of the day. The Federalists believed in a strong central government, protective tariffs, loose interpretation of the Constitution, liberal governmental expenditures, opposition to slavery, and were inclined to favor the industrialization of the nation. On the other hand, the Antifederalists advocated states' rights, low tariff, strict interpretation of the Constitution, economy in government, and were inclined to defend slavery and the development of agriculture as opposed to industry. Alexander Hamilton

and Thomas Jefferson represented these conflicting points of view in the two parties respectively.

In the United States the role of the political party is especially significant. We are a highly diversified people of some 130,000,000, scattered over a vast area. There are many differences in race, religion, and locality. The party serves as an agency to bring these diverse elements together. The party is therefore one of the important Americanization agencies.

A unique characteristic of the American governmental structure is the vast number of our governments. It has been estimated that we have approximately 175,000 governments in the United States which are mostly local in character.¹ Merriam and Gosnell point out the fact that there are between 700,000 and 800,000 elective officials in this country.² How could this mass of officials secure nominations and elections without some organized mechanism such as that provided by parties?

The party renders another valuable service in helping to preserve a proper balance between the various departments of government. This is especially true in the case of the Federal government with its division of powers and checks-and-balance system. If it were not for the party serious deadlocks might result in the relations of one department to another, especially between the executive and legislative.

For example, if the legislature and the executive happen to be of different political faiths, the party tends to cut down and decrease possibilities of friction and even deadlocks in the enactment of law. If there is any unity in such a government, that unity comes through political action.³

Representative Democracy. "With the exception of the initiative and the referendum and the survival in some New England communities of the town meeting, ours is a representative democracy."⁴ Under the initiative and referendum the people by petition can formulate their own laws and secure a popular vote on them

¹ William Anderson, *Fundamentals of American Government*, Henry Holt and Company, Inc., New York, 1940, p. 11.

² C. E. Merriam and H. F. Gosnell, *The American Party System*, The Macmillan Company, New York, 1930, p. 243.

³ Jeremiah S. Young, John W. Manning, and Joseph I. Arnold, *Government of American People*, D. C. Heath and Company, Boston, 1940, p. 115.

⁴ P. H. Odegard and E. Allen Helms, *American Politics*, Harper & Brothers, New York, 1938, p. 733.

with or without the action of the legislature.¹ Even where these instruments of popular control are found, experience points to the fact that they have been on the whole used sparingly.

For all practical purposes the principle of representative democracy is widely used in those countries where democratic institutions have survived the onslaught of totalitarianism. In pioneer days conditions were simple. The prevailing attitude toward the public service is reflected in the Jacksonian movement of the early nineteenth century. The feeling was generally expressed that government was relatively a simple thing — so much so that virtually anyone was competent to hold public office, whether he was a frontiersman, an artisan, or a professional man. Since that time our nation has become industrialized. Governmental functions have expanded to meet changing conditions and have become very complex. The voter is called upon to elect more public officials to represent him than formerly. The average citizen, preoccupied with his private affairs, does not have much direct contact with government, aside from such occasions as paying his taxes, or occasionally serving on a jury. Government is a complex matter even for our representatives, who are subjected to such a variety of conflicting pressure groups that they are frequently puzzled as to how to vote on a given bill.

There are limitations to representative government. At times our representatives instead of representing the common welfare may serve special interests. Our system of choosing representatives upon the basis of narrow, artificial, and provincial districts may serve to obscure the broader point of view which a good representative should have. The quality of our representatives could no doubt be improved. In spite of these limitations, however, the principle of representative government has much to commend it.

To improve the American democracy we shall have to improve its representative character. This will mean the choice of better qualified men and women for public office. It will require the improvement of our election procedures so that more intelligent voting may result. Perhaps we need to adhere more strictly to one of our basic principles of government, namely, representation in proportion to population. An illustration of this inequality is

¹ For a discussion of the initiative and referendum, see Chap. XXXIV, *The Democratic Process*.

found in the state senatorial districts in Illinois, because there has been no legislative reapportionment since 1901. One district, for example, has a population of 563,231 while another has 42,925, yet both have the same number of votes in the legislature. Perhaps some principle of representation other than territorial districts, such as a form of occupational representation, might be worked out so that the various groups — farmers, laborers, professional people, and others — would get representation in proportion to their percentage of the total population. We have done virtually nothing with this “functional” plan of representation in this country.

In the absence of an occupational plan of representation, the least we could do is to make the present system more equitable. Legislative reapportionment should be resorted to in an effort to equalize the districts. Another possible improvement lies in some plan of proportional representation such as the Hare System, which undertakes to secure representation more in accordance with population and aims to give the voter a more discriminating choice in his selection of representatives.¹

Political Parties and Interests. In our democracy many diversified interest groups are represented. Some of these are business groups like the United States Chamber of Commerce, the National Manufacturers' Association, and the American Bankers' Association. Labor is represented by the Congress on Industrial Organizations (CIO) and the American Federation of Labor (AF of L). Farm groups like the Grange, the American Farm Bureau Federation, and the Farmers' Union represent the agricultural viewpoint. There are many other such groups.² It seems that government is largely a contest between different interest groups to gain recognition in the form of representation on governmental bodies and to secure favorable legislation. These interest groups work through the political party to attain their ends. It may take the form of pressure to get certain desirable “planks” in the party platform, pressure to get the right candidates elected or appointed, to get representatives to vote in the “right” way, and financial aid to the campaign fund.

¹ See Chap. XXXIV for a discussion of the Hare System.

² See Chap. XXXIII for a discussion of Pressure Groups and Invisible Government.

DEVELOPMENT OF PARTIES IN THE UNITED STATES

Parties in the United States. During the Colonial or Pre-Revolutionary period in American history there were no regularly organized political parties as such. However, the people did have differences in opinion as to how far the policy of imperial control should go. In general, those who favored the policy of imperial control were known as "Tories" while those who opposed this policy were referred to as "Whigs."

In the Post-Revolutionary period the struggle over the formation and adoption of the Constitution resulted in the establishment of the Federalist and Antifederalist parties. Shortly after the adoption of the Constitution the latter group became known as the Democratic-Republican Party.

The Federalist Party was successful in getting control of the government from 1789 to 1801. During the period when the French Revolution was in progress the Democratic-Republican Party discontinued the use of the term "Democratic."

The Republican Party was able to get control of the national government from 1801 to 1825. Many liberal Federalists were attracted to it because of its increasingly nationalistic tendencies. The Federalist Party was on the decline, especially after the War of 1812. By 1820 it had disappeared entirely from the American political scene.

With the election of 1824 the caucus method of nominating candidates for the presidency and the vice-presidency was meeting with increasing popular opposition. Along with this development came a strong spirit of sectionalism. Each section nominated its favorite candidate. The Adams-Clay coalition ticket, taking advantage of sectional politics, was successful in this election on a platform calling for an ambitious nationalistic program.

In 1829 Jacksonian democracy came into power. President Jackson followed a vigorous and shrewd policy of organizing the diverse elements which had been opposed to the Adams-Clay coalition program. The result of this process was the organization of the Democratic Party on the Jacksonian pattern. By 1832 the opponents of Jackson had become known as Whigs.

The Pre-Civil War period from 1832 to 1848 was characterized by political contests between the Whigs and Democrats on such

issues as the national bank, protective tariff, and internal improvements.

By 1848 the slavery question was becoming a major issue of American politics. Because of the added tenseness of the slavery issue the Liberty Party joined forces with the irreconcilable elements of the Whig and Democratic parties to form the Free Soil Party. The Republican Party was formed in 1854 primarily as a protest against the extension of slavery in the territories. However, the Democrats were successful in maintaining their control of the national government to 1861.

The Republican Party under Lincoln was successful in capturing the presidency in 1860, due largely to its antislavery program, its advocacy of protective tariff, and its homestead policies. The success of the North in the Civil War resulted in the general repudiation of the Democratic Party.

The Democratic Party regained control of the national government in the elections of 1884 and 1892 under the leadership of Grover Cleveland. The campaign issues centered largely on tariff and currency problems. The campaign of 1884, the most exciting since 1860, was characterized by extensive "mud slinging," noise, torch light parades, and popular political verse. In 1888 the Republicans came into power again, to be dislodged by the Democrats in 1892. The Republicans, under the leadership of William McKinley, recaptured control of the government in 1896 following a campaign for sound money and the gold standard, whereas their opponents, under William Jennings Bryan, advocated the "free coinage of silver at the established ratio of 16 to 1."

The election of McKinley in 1896 marks the beginning of unbroken Republican rule to 1912 and the increased activity of "big business" in American politics. McKinley owed his election principally to the clever political tactics of his campaign manager, Marcus Alonzo Hanna of Cleveland, who was a firm believer in the mission of the Republican Party. McKinley was hailed as the advance messenger of prosperity, and the slogan "full dinner pail" was used to influence the working people. His Democratic opponent, William Jennings Bryan, was hailed as the spokesman of the common people. His famous "Cross of Gold" speech in the Democratic Convention is a classic among political orations, in which he said,

Having behind us the producing masses of this nation and the world, supported by the commercial interests, the laboring interests, and the toilers everywhere, we will answer their demand for a gold standard by saying to them: "You shall not press down upon the brow of labor this crown of thorns, you shall not crucify mankind upon a cross of gold."¹

The reelection of McKinley in 1900, largely on the foreign policy issue, found the United States a world power. His assassination in 1901 brought a forceful character into the presidential office, Theodore Roosevelt, who was elected in his own right in 1904. Big business had overreached itself in the period 1896 to 1901. Now the people desired reform. Roosevelt promised them a "square deal." He attacked the trusts, the railroads, and the fraudulent food and drug makers. Many progressive social welfare measures were passed during his incumbency.

William H. Taft, Roosevelt's choice, was elected president in 1908. On the whole, his administration was uneventful. The campaign of 1912 aroused widespread interest. The "regular" Republicans renominated Taft; the Progressive Republicans, or "Bull Moosers," selected Roosevelt; and the Democrats chose Woodrow Wilson. The last was victorious.

President Wilson was of the idealistic turn of mind, a believer in the "New Freedom" for the individual, and an advocate of more opportunities for the small businessman. He favored the ending of close connections between big business and the government. Many progressive measures were enacted in his administration such as the Federal Banking Act, the Underwood Tariff, antitrust measures, and others. The last half of his administration was significantly affected by the European War. In 1916 Wilson was the Democratic candidate against the Republican, Charles Evans Hughes. The Democratic slogan was "He kept us out of war." Wilson triumphed in a very close election.

The year 1920 witnessed the return of the Republicans to power under Warren G. Harding. The contest centered largely on the adoption of the Versailles Treaty of Peace with its League of Nations Covenant. The Republicans with their slogan "Back to Normalcy" were victorious. The death of President Harding in 1923 elevated Calvin Coolidge to the presidency. Coolidge pursued a policy of

¹ For a more detailed account of the history of American elections, see Harold U. Faulkner, *American Political and Social History*, F. S. Crofts & Co., New York, 1941.

friendliness to big business. He was reelected in 1924. In 1928 the Republicans nominated Herbert C. Hoover, former Secretary of Commerce, and Food Conservator during the First World War. Governor Alfred E. Smith was the Democratic nominee. Some of the main issues were prohibition, aid to the farmers, economy in government, and the protective tariff.

In 1932 the Republican and Democratic candidates were Herbert C. Hoover and Franklin D. Roosevelt respectively. The campaign issues centered on prohibition repeal, currency, and aid to the farmers and the unemployed. Roosevelt through his "New Deal" program for the economic recovery of the nation restored the Democrats to power. The year 1936 witnessed the reelection of Roosevelt largely on his program of economic and social reform.

In the contest of 1940 between Roosevelt and Wendell L. Willkie, his Republican opponent, the main issue was the Roosevelt recovery program, the possibility of our becoming embroiled in the European conflict, and the third-term issue. For the first time in our history the long-established tradition of "no third term" was broken.

The Democratic and Republican Parties Today. Although the present Republican Party is largely a descendant of the old Federalist Party, and the Democratic Party, the offspring of the Democratic-Republican Party of Jefferson's day, they show some interesting differences from their ancestral organizations. Today it is the Republicans who are solicitous about states' rights and the strict interpretation of the Constitution, and who are alarmed at the high federal expenditures and the development of a bureaucracy at Washington. On the other hand, the Democrats have tended to favor centralized government, a liberal interpretation of the Constitution, and larger governmental expenditures — the very things that Jefferson opposed in 1800.

Moreover, there are many conflicting elements within each party. The real issue within each party is that of conservatism vs. liberalism. The "Jeffersonian Democrats" opposed the liberalism of the "New Deal Democrats." In the Republican Party a similar struggle is going on between the "Liberal Republicans" and the "Old Guard," the conservative wing. From the standpoint of fundamental issues it would seem more logical for the Jeffersonian Democrats to join hands with the Conservative Republicans in their opposition to the "New Dealers" and the Liberal Republicans.

PARTIES IN THE UNITED STATES AND OTHER COUNTRIES CONTRASTED

The Biparty System. Both England and the United States use the two-party system. This may be explained as a product of experience and custom. In England, experience has tended to prove that the stability of parliamentary government can be best maintained by a dual rather than a multiple-party system.¹ The experience of France with multiple parties shows definitely that they become a source of weakness in a government.

Not only does a responsible ministry presume government by party; in order to work smoothly, such a ministerial system requires the existence of two great parties and no more — each in the words of Bryce, “strong enough to restrain the violence of the other, yet one of them steadily preponderant in any given House of Commons.”²

At the present time the leading parties in England are the Conservative, Labor, and Liberal parties. After the First World War, the Liberal Party suffered internal dissensions which gradually weakened it, and its situation is still precarious today. In the United States, the two-party system has special significance because of the presidential type of government, where there is a separate, independent, executive department not subordinated to the legislative branch. To have more than two strong major parties would tend to complicate the election of the president. The vote might be so scattered that there would not be a majority of the electorate voting for any one candidate, thus forcing the election into the House of Representatives in accordance with the Constitution. Since it is to be presumed that the House would vote strictly along party lines, this might result in the selection of a president who does not represent the popular will.

The Multiple Party System. English-speaking countries have long shown a marked tendency to concentrate upon two major political parties, whereas in many other European countries possessing anything approaching democratic institutions the multiple party system is in vogue. Prewar France under the Third French Republic had numerous parties. In the Chamber of

¹ H. R. Spencer, *Government and Politics Abroad*, Henry Holt and Company, Inc., New York, 1936, pp. 97-98.

² F. A. Ogg, *European Government and Politics*, The Macmillan Company, New York, 1935, p. 314. (Quoted from James Bryce, *The American Commonwealth*, 3rd ed., Vol. I, p. 287.)

Deputies, as it stood at the beginning of 1939, there were no fewer than seventeen officially recognized political groups, all but six of them having sprung into existence within the previous year and a half.¹ This condition was not peculiar to France alone. Prior to the development of totalitarianism in Europe a number of countries such as Italy, Germany, and Russia had multiple parties.

In the case of France several factors explained the existence of this multiplicity of parties. The French are inclined to be highly individualistic in their political life. The multiple-party system is rooted deeply in French history. While most of the French were devoted to the republican regime, there were some irreconcilables who sought to restore the monarchy. Long agitations over the relations of church and state led to the organization of clerical and anticlerical parties. The development of modern industrialism produced sharp cleavages between labor and capital which in turn led to the growth of socialism, trade unionism, and more recently of communism. Opposition to parliamentarianism within recent years has led to a rise of authoritarianism, associated with Fascist programs. French political parties represent many shades of public opinion from the highly conservative to the moderate and even the radical point of view.

Another factor in the French party system is the close personal relationship existing between the members of the Chamber of Deputies and his constituents which results in the weakening of party ties. Finally, the right of interpellation, or of extreme cross-examination of the cabinet by the Deputies, frequently results in the fall of the government. The successful operation of a parliamentary government such as the Third French Republic, depends upon the control of a working majority by the dominant party. Frequently, in order to get such a majority vote, coalition cabinets become necessary with the resulting condition of weakness and dissension. This condition was very evident in the case of the Blum "Popular Front" government and the Daladier "National Defense" government prior to the fall of France.

The Role of Minor Parties in the United States. Although traditionally we have been and are now a two-party nation, various minor parties have appeared in American history, such as the American or "Know-Nothing" Party, the Populist, the Farmer-

¹ *Ibid.*, revised edition, 1939, p. 539.

Labor, the Progressive, the Prohibitionist, the Socialist, and others.

The Populist Party was organized in 1891 at a time when there was considerable unrest among farmers and urban industrial workers. In the election of 1892 the party nominated James B. Weaver of Iowa as its presidential candidate. The platform advocated free coinage of silver; government ownership of railroads, telegraphs, and telephones; a postal savings bank; better conditions for labor; and a graduated income tax. The party polled 1,041,021 votes.

Another example of a minority movement is the Socialist Party organized about 1890. Eugene V. Debs was its presidential candidate five times; twice polling more than a million votes. Norman W. Thomas was the presidential standard bearer in 1928, 1932, 1936, and 1940. In the main, the Socialists have advocated the extension of government ownership, the abolition of monopolies, improved labor conditions, social insurance, peace, income taxes, and the initiative, referendum, and recall.

The Progressive or "Bull Moose" Party led by Theodore Roosevelt in 1912 affords an interesting example of a minor party. In a three-cornered fight Wilson, the Democrat, was elected President with 6,300,000 votes; Taft, the Republican, received 3,400,000; Roosevelt, the Progressive, 4,000,000; Debs, the Socialist, 900,000. The Progressive platform advocated direct primaries, popular election of United States Senators, the short ballot, minimum wage laws, and other reforms. In 1924 the Progressive banner was under the leadership of Robert M. La Follette of Wisconsin. It received more than 4,500,000 popular votes and 13 electoral votes. The latter were from his home state, Wisconsin.

The Success and Failure of Minor Parties. In terms of vote getting and the capture of public offices, however, minor parties, either singly or collectively, have not constituted a formidable threat to the major parties. This has been especially true of national elections. In state and local elections they have had more success, although their victories have been confined to particular regions. A good example of the latter was the Farmer-Labor Party of Minnesota, which won a smashing victory in 1932, electing the governor and a number of other state and local officers. In Wisconsin the La Follette Progressives captured the governorship in

1934. The Non-Partisan League has largely dominated the political scene in North Dakota during most of the period since the war.

In Milwaukee, Bridgeport, Connecticut, and in New York City, the Socialists, the City Fusion, and the American Labor parties, have succeeded in electing mayors and other municipal officers. But in terms of actual election victories, minor parties have not been conspicuously successful.¹

The figures of the 1940 presidential election illustrate this fact clearly. Mr. Roosevelt, the Democratic candidate, received a popular vote of 27,245,422; Mr. Willkie, his Republican opponent, received 22,333,801 votes. The minor party votes were distributed as follows: Norman Thomas, Socialist, 116,796; Roger Babson, Prohibitionist, 58,674; Earl Browder, Communist, 49,028; John Aiken, Socialist-Labor, 14,861; others, 413. The grand total vote was 49,818,995. It is interesting to note that as a group the minority parties polled fewer votes in 1940 than in any presidential election since 1924. It should be noted, however, that some parties, such as the Socialist and Communist, failed to get a place on the ballot in a number of states.²

There are a number of factors which explain why minor parties have not made greater progress in this country. We have had the tradition of the biparty organization for many years. As a people we are inclined to be conservative in our politics. This is due in part to the fact that during most of our history we have enjoyed a condition of prosperity to a greater degree than most European countries. Distressing economic and social conditions are more likely to provide a fertile field for the growth of political parties.

Legal difficulties having to do with the control of party machinery and procedure present additional problems. It is very difficult for a new party to get on the ballot in many states because of the stringent requirements as to the large number of petition signatures required.

In Ohio, for example, over 200,000 signatures, 15 per cent of the vote at the last preceding election, are required in gubernatorial elections. There are other restrictions, too, as in Nevada where a new party must not only present a petition signed by 5 per cent of the voters but pay a non-returnable fee of \$1500.³

The single-member district system of representation and the majority requirements for the election of a President react to the

¹ Odegard and Helms, *op. cit.*, p. 793.

² *The Chicago Daily Times*, Chicago, Nov. 8, 1940.

³ Odegard and Helms, *op. cit.*, p. 790.

disadvantage of minor parties. Seldom do we find a provision for minority representation in legislative bodies. Perhaps some form of proportional representation, such as the Hare system, would solve this aspect of the problem.¹

The two major parties have many advantages. They have the benefit of extensive organization, funds, and prestige which a minor party would not have. The party in power has additional sources of strength. By its use of elaborate organization from the nation's capital down to the smallest precinct, it wields tremendous power. It has an army of willing and enthusiastic workers who have definite stakes in winning the election, because their jobs and political careers are bound up with the triumph of their party.

It would be erroneous, however, to assume that minor parties have not made a contribution to the political history of the United States. They have exerted some influence by serving as "protest movements" and in forcing the attention of the major parties to the need for certain economic and social reforms. Their protests and agitation have sometimes resulted in the incorporation of certain planks in the platforms of the major parties. For example, the Progressive Party advocated for many years the direct primary and the popular election of United States senators. The Socialist Party has consistently urged the adoption of the income tax and social security legislation. These reforms and others have already been enacted into law by the action of the major parties. The Populist Party in 1892 incorporated a plank in its platform favoring the establishment of a postal savings bank. This was made an accomplished fact in 1910 in the Republican administration of William Howard Taft.

PARTY ORGANIZATION

National Party Structure. Party organization in the early days of the Republic was loose and incomplete. Prior to 1840 the prevailing practice was for the party members of the two houses of Congress to meet and select the nominees of their respective parties for President and Vice-President. This method was known as the "Legislative Caucus" which came to be generally criticized as being undemocratic and boss controlled. As a result the National Convention was organized to meet every four years for the purpose

¹ See Chap. XXXVII on Legislation.

of nominating the candidates for those two high federal offices. The National Convention meets to make nominations and to determine the party platform. It is considered the most important and most representative organ of the national party. Subordinate to the National Convention is the National Committee of the party. The Committee consists of over one hundred members.¹

In theory the National Convention appoints the National Committee. However, this is a mere formality as

... the state delegations to the convention select the state's national committee members in about one third of the states; the state conventions do it in another third of the states; and the remaining states use either the direct primary method, or permit the state central committee to appoint.²

As a body the National Committee has little to do except during the presidential election year. This Committee issues the call for the convention, fixes the time and place, determines the method of apportioning delegates, names the temporary officers, and announces the temporary roll of delegates. At the head is the national chairman, who theoretically is chosen by the Committee but actually is selected by the presidential nominee and usually holds office until the next convention meets. It has been customary in the event of the success of the party to offer the national chairman the position of postmaster general, an office which controls considerable patronage. With the advice of other party leaders he must plan the general campaign and direct its conduct. He must be a man of wide experience and political acumen.

There are two other committees which have an important task, that of aiding in the reelection of its members in the House and Senate. These are known as the "Congressional Committee" and the "Senatorial Committee" respectively. These committees cooperate with the National Committee during the campaign. The latter allocates to them the necessary funds for their campaign activities.

State Party Organization. The state party convention was at one time the chief governing organ of the state party in practically

¹ In both parties the committees consist of two members, a man and a woman from each state, plus two members each from the District of Columbia, Alaska, Hawaii, the Philippines, and Puerto Rico, and for the Democrats an additional one each from the Canal Zone and the Virgin Islands — plus also a chairman appointed by the party candidate for the presidency.

² Anderson, *op. cit.*, p. 218.

all of the states. However, more recently the widespread development of the direct primary has lessened its influence considerably. Some states have taken away many of its former powers.

With the decline of the state party convention, the State Central Committee has become the most important organ of the major state parties. Members of these committees are chosen either by direct primaries or by party conventions. Representation is based upon county and state legislative districts, and other units. "There is no uniformity in the size of state committees; they range from eleven in Iowa to over five hundred in California."¹ The State Committee has jurisdiction over state campaigns. It has a great influence in the distribution of state patronage and acts as an agent of the National Committee in the conduct of the presidential campaign. A further function of the State Committee is to make the necessary arrangements for the State Convention. The latter is composed of delegates chosen by party members directly or by county or district conventions. In a few states nominations for state offices are still made by the State Convention.

Local Party Organization. The next important political unit is the County Committee. There are over 3000 counties in the United States.

In about 1,800 counties, both parties are likely to be well organized and all told there must be close to 5,000 active county committees in the two parties, with the Democrats having the larger number today.²

In addition to county committees there are also city and ward committees. The basic cell or smallest unit in the party organization is the precinct. It averages about 500 voters, although the number varies from state to state. The precinct is under the control of a Precinct Committee, sometimes consisting of two, sometimes of three party workers, men and women. It has been estimated that there are about 120,000 voting precincts in the country with anywhere from 250,000 to well over 1,000,000 workers. The more active precinct organizations are to be found in the larger cities. In consideration of the services rendered to the party, many of these workers are placed on the public pay rolls of the city, county, or state. The main task of the precinct workers is to keep the voters loyal to the party. Various favors are distributed by these precinct

¹ Anderson, *op. cit.*, p. 220.

² *Ibid.*

captains, lieutenants, or leaders in the form of jobs, "fixing" parking tickets, adjusting tax problems, or rendering other types of personal service in a friendly manner.

Thus far we have considered the formal organization of the party. In actual practice control of a party organization may sometimes be in the hands of a few men. Party committeemen may be mere figureheads. The real source of control may be in the party bosses or machines.

POLITICAL PARTIES IN ACTION

Party Workers. The story of political parties would not be complete without some reference to the party worker. The party worker from precinct up is a service man, a dispenser of various types of favors, as a means whereby to create good will which can be converted into votes on election day. The precinct worker bridges the gap between the party on the one hand and government on the other. He gives contributions to churches and charities, baskets of food to the poor, gets jobs, and helps secure needed hospitalization for the sick. He may help young men in the neighborhood to get a charter for their newly formed Social and Benevolent Club or get them out of the clutches of the law. In many ways he is on call day or night. Naturally people are grateful, and some are easily persuaded to vote the "straight ticket" on election day. It should be noted that in some cases the citizen is entitled to these services, but he is made to think that they are possible only through the extraordinary efforts of the professional politician.

The precinct worker, to be successful, must develop the attributes of loyalty, industry, and the understanding of just "plain folks." He must be able to win people over to the party he represents. In his attitude he must not be too critical or ask too many questions. When beginning in politics he is not asked whether he went to college. The important thing is loyalty and the ability to deliver the precinct. Any hope of success or promotion in the future rests upon this practical, productive basis. The partisan and practical attitude of a typical party leader is aptly stated in the following words:

"I don't want applause," said a Chicago political leader, "What I want first is pledge cards. But more than that, votes. This is a real fight and every man must do his share. . . . I want to say that if any man does not carry his precinct

on the thirteenth of April, he'll be fired on the fourteenth. If a man means anything in his precinct he can carry it. If he doesn't . . . he has no business in politics. . . . What is more, any of you that don't get out the vote and have jobs, will lose them and they'll go to those who do work and have no jobs. I'm looking at one right now that has no job and he'll have one that someone else now has unless you get out the votes. Don't think that I don't mean this. I've fired the ward committeeman and I've fired the president of this ward club although he had a six-thousand-dollar job. I believe that 'to the victor belongs the spoils,' He who contributes the most to winning the election ought to sit at the first table and those who do next should sit at the second table. Anyone of you who can come to me and show that he got out more votes than someone else who has a better job, can have that job."¹

Primaries. Many methods have been used in nominating candidates for public office. During the early days of this country the "self-announcement" system was in vogue. This type of nomination was common in the southern and southwestern states as late as the Civil War. Small cliques of wealthy landlords would get together to control the nominating process. Next came the "legislative caucus," the form of which has already been discussed. Finally, in the latter part of the nineteenth century, popular clamor brought about the direct primary. This method is now in general use throughout the states.

There are two types of direct primaries, namely, the closed and the open primary. Most states have the closed system. Under this arrangement, the voter may vote on the candidates within only one party and he is recorded on the poll books accordingly. Party voting is encouraged by this type of primary. Under the open primary system the voter's party affiliation is not recorded.²

The political machine and the boss favor the closed primary system. This enables them to regiment the voters and to maintain party discipline. The machine gets its control of public office largely through its control of the primary. When the direct primary was first introduced, many people thought that it would be a death blow to political bosses and machines, but this has not happened. The machine organizations in both parties put up their slates of candidates in the primary and frequently the voter is limited to a

¹ Carroll Woody, *The Chicago Primary of 1926*, University of Chicago Press, Chicago, pp. 7-8. By permission of the publishers.

² For a more detailed discussion of nominations, see Chap. XXXIV, *The Democratic Process*.

choice between the "A-machine" candidates and the "B-machine" candidates.¹

Primaries as a rule have a smaller turn-out of voters than a regular election. Hence the organization with its vast number of "pay-rollers" who can deliver large numbers of votes dominates the primary. It can do so with a relatively small number of votes, because many of the independent voters will remain at home on primary day, especially if the weather is inclement. Frequently, control of the primary means success in the election which follows. Those who advocate the overthrow of the machine system must not lose sight of the great importance of the primary from the standpoint of practical politics.

The National Convention. The National Convention of the major parties has been described as the "greatest show on earth." The city selected for the site of the Convention has often been chosen because of its strategic political importance, its hotel and entertainment facilities, and the guarantee purse which has been put up by the local businessmen. Usually a fund of at least \$100,000 must be guaranteed by the businessmen for necessary expenses before a city can get any serious consideration as a possible site.

After a number of preliminaries, the temporary chairman of the Convention, who is usually a good orator, delivers his "keynote" speech, which is generally an exposition of the failures of the opposing party and the outstanding successes of his own party. Succeeding sessions of the Convention are taken up with organization work, and finally with the balloting for the presidency and the vice-presidency. The key committees of the Convention are: Temporary and Permanent Organization, Credentials, Rules, and Resolutions. The permanent officers assume their positions in due course. The chief of these is the permanent chairman, who must be a man of great energy and diplomacy, and who is a good parliamentarian. It is an extremely difficult task to preside over such a large, enthusiastic, and even noisy gathering. The Credentials Committee decides which delegates will be seated in the event of contesting claims. This may have great political significance. The Resolutions Committee formulates the party's platform for the coming cam-

¹ For a more detailed discussion of bosses and machines, see Chap. XXXIII, Pressure Groups and Invisible Governments.

paign. This is a difficult task, involving reconciliation of the many opposing points of view held by various party leaders.

The most interesting and important part of the Convention comes with the nomination of candidates for president and vice-president. Thousands of people are gathered here from every state and most of the territories. Bands and banners are numerous. The party delegates are seated by states in the huge hall or stadium. Each state has a spokesman who responds to the roll call for the delegation, which is called in alphabetical order, beginning with Alabama. If a state has no candidate, it may yield to some other state, as for example, New York. Each state may nominate a candidate. Nominating and seconding speeches are made for the various candidates. In the 1936 Democratic Convention seconding speeches were made by every state delegation for Mr. Roosevelt. The mentioning of the candidate's name at the end of a long oratorical speech is the signal for an extended outburst of applause, cheering, band playing, parading, and general uproar. The plan is definitely to keep the demonstration going as long as possible as indicative of the popularity of the favorite candidate.

Prior to 1940 the Democratic Party required a two-thirds vote to nominate a candidate. At times this rule made repeated balloting necessary before a candidate was agreed upon. In the 1940 convention, however, the two-thirds rule was changed to a simple majority.

Presidential Candidates. There are three types of presidential candidates, namely, "logical," "favorite son," and "dark horse." One man by his previous service or position may be the logical person for nomination. This was the case with Coolidge in 1924, and with Hoover in 1928 and 1932. Such a person seeking renomination for a second term is regarded as a logical candidate. This was the case with Franklin D. Roosevelt in 1936. A favorite-son candidate is generally a prominent local man whom the state may wish to honor. It may be some wealthy person who has given freely to the campaign fund. For many years in the Democratic Convention the state of Alabama placed in nomination the name of its most prominent political figure, Oscar W. Underwood. Ordinarily a favorite son has little chance of winning the nomination. A dark-horse candidate is one who in the early balloting has shown little strength but, because of a deadlock between the major

candidates, is nominated. A good case in point is Warren G. Harding in the Republican Convention of 1920. Major General Leonard Wood and former Governor Frank O. Lowden were nearly tied but neither could get the necessary majority. Finally, word went out from the "Old Guard" leaders of the party that Harding was to be the man. Before long both major candidates withdrew, and after a few ballotings Mr. Harding was nominated. The year 1920 happened to be a good Republican year, and nomination was equivalent to election.

Qualifications for the Presidency. The American Constitution sets up specific legal requirements for the presidential office; however, it is the extraconstitutional qualifications that are of most interest to the student of government. Several extra-legal elements enter into the qualifications of a man for the presidency, such as character, physique and personality, ability to speak, experience, geography, race, and religion.¹ The American people expect that a president should be a man of unimpeachable character. They also expect that the President possess a vigorous physique and a pleasing personality, although there have been a few exceptions to this rule. The ability to speak well is an asset to a presidential candidate, especially if he has a magnetic personality as well. A candidate should have had a successful apprenticeship in politics or public life. The most fertile presidential field seems to be in the territory from New York to the Mississippi River and from the Ohio River to the Great Lakes. Finally, every President of the United States has been a Protestant.

Our Presidents have not always been men of outstanding ability or preeminence. Many years ago Viscount Bryce in his *American Commonwealth* sought to explain why the best man does not become President. One reason he gave was the fact that the proportion of first-rate ability drawn into politics is smaller in America than in most European countries. Another explanation is that the methods and habits of Congress, and indeed of political life generally, give fewer opportunities for personal distinction. A third reason is that eminent men make more enemies, and give those enemies more assailable points, than obscure men do. The merits of a President are one thing and those of a candidate another thing. To a party

¹ For a good discussion of this topic see R. C. Brooks, *Political Parties and Electoral Problems*, Harper & Brothers, New York, 1933, Chap. 10.

it is more important that its nominee should be a good candidate than a good President.¹

AMERICAN POLITICAL CAMPAIGNS

The party platform is theoretically a declaration of policies to be followed by the party in the event of success at the polls.

Supposedly an exposition of the things for which the party stands, as well as a manifesto of intentions, it has become in practice anything but a lucid setting-forth either of views or of aims.²

The platform is worded with fine-sounding phrases, in fact, so general that it is difficult to know what it was really intended to mean. Appeal is made to every possible group. The businessman must be given a fair chance to make an honest profit. Labor is entitled to a fair wage. The farmer must be given aid. There must be fair play for all nationalities and races. For some years, platforms espoused the cause of "Home Rule for Ireland." Generalities and convenient side-stepping of controversial issues is characteristic. When the party is elected to office there is no guaranty that any serious effort will be made to put the platform into effect.

Campaign slogans offer an interesting study. A good slogan, which in reality may not mean very much, may make or break a candidate. A few good examples will be sufficient here: "Keep Cool with Coolidge"; "Fifty-four Forty or Fight"; "Rum, Romanism, and Rebellion"; "He Kept Us Out of War"; "America First"; "Back to Normalcy"; "Forward with Roosevelt." When the question was raised as to what was meant by "America First" the retort was that anyway it was something that you couldn't argue about.

The radio has played an increasingly important part in political campaigns since 1920. There is no longer the necessity for extensive speaking tours. Even "front- or back-porch" campaigns are unnecessary. Now the presidential candidate may sit in his own study and have a "fireside chat" with millions of American citizens. Of course, great national chain programs are expensive, and are therefore a handicap to the Independent or minor party candidate.

¹ James Bryce, *The American Commonwealth*, The Macmillan Company, New York, 1931, Vol. I, pp. 77-84.

² Robert Phillips, *American Government and Its Problems*, Houghton Mifflin Company, Boston, 1941, p. 483.

The campaign meeting is not always conducted on a high level. Too frequently it gives evidence of hypocrisy, insincerity, mud-slinging, and discussion of personalities. Showmanship is a marked characteristic of political campaigning. The candidate may appear with a ten-gallon hat with cowboy attire to "whoop it up" in real "he-man" style. In another instance the candidate may wisecrack or croon his way to public office. It has been known for a candidate to tour a state with his own hillbilly orchestra. The late Huey Long, former Mayors James Rolph, William H. Thompson, and James Walker are some of the well-known showmen in the American political arena. Such types of campaigning have been especially characteristic of municipal politics in this country. If any criticism is made of such tactics one may be reminded that they often succeed.¹

Human interest is a striking feature of American political campaigning. We think of the late President Coolidge in a cowboy suit, in Indian garb, or in the role of "dirt farmer," pitching hay on the old farm. Then there is "Al" Smith in the famous brown derby. We are reminded of such striking personalities as "Alfalfa Bill" Murray, "Sockless" Jerry Simpson, and "Pitchfork" Ben Tillman. Murray was represented as a man who lived in a house with a sod floor without a bathtub, who seldom wore a coat, and who frequently appeared in a soiled shirt. The fact that a candidate wears suspenders may be of more consequence than his views on vital public issues.

¹ An interesting example of political showmanship was afforded by a recent mayoralty election. The incumbent had made an enviable reputation. His administration was known as one of the most efficient city governments in the United States. His opponent in this election was a young man who had no apparent political organization but was nevertheless able to defeat the venerable incumbent, a seasoned campaigner, for a number of reasons. In the first place he was a genial, handsome young man with a winning smile, bubbling over with confidence and enthusiasm. He had an intense love of people and was known as a good "joiner." He belonged to almost every type of organization — lodges, singing societies, civic associations, breakfast clubs, luncheon clubs, and discussion groups. He soon enjoyed the reputation of knowing more people by their first names than any other citizen in the city. His hearty handshake, his pleasing and winning smile, might turn up at any corner at any hour of the day. His energy and enthusiasm seemed without limit. As a speech-maker he set a record. In less than three months he made 879 talks. One of his greatest assets was his rich baritone voice. When people tended to tire of speeches, he turned to popular songs, such as, "God Bless America" and "The Road to Mandalay." When a reporter asked him why he kept up his continual round of orating and "joining" he responded with this memorable answer. "I gravitate toward people. I love my fellow men. I am immensely interested in people. I want to help them, to do what I can to better them. Furthermore, I believe in the idea of a better world." (As reported by the *Chicago Daily News*, Oct. 4, 1940.)

Propaganda in Campaigns. More and more propaganda is becoming an outstanding tool in our campaigns. Propaganda appeal has become an expert business in itself. Both parties canvass the country to get the best possible talent for this important work. Newspapermen, skilled in the art of journalism, who have had practical political contacts and background, are employed. Newspapers, radio, meetings, posters, buttons, insignias, and countless other devices are used to reach the voter, and sometimes even rumors and whispering campaigns are resorted to. The party in power has the advantage over the party not in power. The "ins" have the use of a tremendous organization, patronage, spoils, and other favors which can be used to good advantage. They are in a much better position to raise vast sums of money for campaign expenses.

Money in Elections. Political parties have become major business enterprises — the two major political parties are million dollar businesses. Campaign expenditures have increased steadily. In the 1860 election Abraham Lincoln's campaign cost but \$100,000. In the 1920 election the Democratic National Committee spent \$2,249,000, the Republicans, \$6,101,000. In 1932, during the depth of the depression, we find that the Democrats spent \$2,408,000 and the Republicans \$2,866,000. With Mr. Roosevelt's reelection in 1936 the Democrats expended \$5,651,000, the Republicans \$8,893,000. These figures do not include the costs of other campaigns, state and local, and consequently represent but a part of the total cost.¹ In the 1940 presidential election the Republicans spent nearly \$15,000,000 and the Democrats slightly more than \$6,000,000. The Communist Party was credited with spending about \$89,500, while miscellaneous national groups spent \$454,954.²

Federal and state laws have set limits on the amounts which individual candidates may legally spend in a campaign.³ These laws are known as "corrupt practices" acts which require that a candidate file a sworn statement of the campaign receipts and expenditures. Some thirty states not only prohibit expenditures for certain purposes but enumerate those for which money may properly be spent. Legal limitations of the size of individual contributions are found only in Massachusetts and Nebraska, where no single gift may exceed \$1000.

¹ *The United States News*, Mar. 29, 1940.

² *Chicago Daily News*, Jan. 23, 1941. ³ Odegard and Helms, *op. cit.*, pp. 671-676.

The Federal government's present Corrupt Practices Act dates from 1925. The law applies to candidates for United States senator and representative in Congress, but the law states specifically that it "does not include a primary election, or convention of a political party." A candidate for the United States Senate may not spend more than \$25,000; for the House of Representatives, not more than \$5000. These limits do not apply to candidates for the presidency. In any event, these limitations are difficult to enforce because expenditures cannot always be allocated accurately among the several candidates on the same ticket.

Recently the Hatch Act was passed by Congress prohibiting political activities of federal employees except those whose duties are policy-forming in character. Individual campaign contributions of more than \$5000 are prohibited. An amendment was added to the act which prohibits the political activities of state officials who are supported in whole or in part by federal funds.

The question might very well be raised as to the wisdom of these high expenditures, and the uses to which they are put. It is not an easy problem to handle successfully because, despite the good intentions of present laws, there are convenient loopholes. The lavish use of money in political campaigns may endanger the true spirit of American democracy.

SOME CRITICISMS OF AMERICAN POLITICS

As a people Americans probably do not take their politics seriously enough. We are much more apt to give our time, talents, and energies to business, social life, or hobbies. Politics to the average person is something of an afterthought. The performance of one's civic duty in voting, for example, is often considered a chore rather than an opportunity to participate in the affairs of government. A study of nonvoting by Professors Merriam and Gosnell revealed the fact that indifference and inertia were the chief causes of nonvoting.¹ "Everybody's business becomes nobody's business except

¹ The study was based on the Chicago election of 1923 in which only 723,000 of the 1,400,000 potential voters took part. Their conclusions were that 44.3 per cent of the absentees abstained through indifference or inertia; 25.4 per cent, through physical difficulties such as absence from home or illness; 12.6 per cent, through legal and administrative obstacles, such as lack of residential qualifications or inferior facilities for voting; and 17.7 per cent, through disbelief in voting, such as woman suffrage or disgust with politics. C. E. Merriam and H. F. Gosnell, *Non-Voting: Causes and Methods of Control*, University of Chicago Press, Chicago, 1925, p. 34.

the professional politician's." The result is that we may get an oligarchy of politicians because too many of our good citizens have abdicated in their favor.

Our standards in politics could be greatly improved. Politics and the public service could be honorable and respectable professions. England has succeeded in making them so to a remarkable degree. More and more of our young people of college education have recently been drawn into the public service. This is one of the most encouraging signs of the times. Politics of today, even though the present standards are not all that we would hope for, are nevertheless improved over those of a generation or two ago.

Another criticism frequently made of our politics is the fact that the citizens forget too easily the promises made by the party and its candidates prior to election day and are prone to fall into a state of civic apathy until again aroused temporarily by another oncoming election.

We have commonly assumed that government is corrupt and big business is virtuous. Corruption in government, however, may reflect our general standards of social morality. Where corruption does appear in government it is frequently the result of the so-called big fix between business and government or to the failure of capable men to respond to the call of political careers when the rewards of business are more attractive.

Too frequently the political party is more concerned with spoils, contracts, and power than it is with fundamental principles. It is mainly a contest between the "ins" and the "outs" without any principle being involved.

As a final criticism it may be stated that our governmental organization is too complex. The people are too often uninformed and indifferent. This suggests the need for a greater education of our citizens in their civic responsibilities and obligations.

THE FUTURE OF THE PARTY SYSTEM

The question has often been raised as to whether our two major parties are still serving a useful function or whether they are outmoded. It has been pointed out that the historical differences between them have largely disappeared. The Democratic Party, however, is still the party of the "solid South." This fact is based

upon an historical issue which has long since passed from the American political scene.

Some argue that the presence of a strong third party would have a wholesome effect upon the two major parties. It would serve as a check on both of them and perhaps be the means of clarifying political issues into a three-fold category of conservative, liberal, and radical. In opposition to this, some are convinced that our present federal system of government works better under a system of two major parties.

In local governments, especially cities, there is much to be said in favor of nonpartisan elections. Under such an arrangement candidates are placed on the ballot by petition without party designations. The justification for this lies in the fact that many municipal problems are administrative rather than policy-forming in character and hence there is a greater need for attracting persons of competence who may not come up so readily through the regular political channels.

Many other problems occur in connection with the operation of political parties. It has been proposed that local elections be held on different days, wherever possible, from state and national elections, because otherwise the local issues will be submerged under the more appealing and dramatic national issues. A landslide vote in a national election will carry with it the election of many local candidates without regard to their personal fitness for the offices in question.

The short ballot has been proposed as an aid to better government. Under present conditions the average voter cannot pass upon the merits of some two or three hundred candidates on the ballot, 90 per cent of whom he may not know. We should not expect the voter to do the impossible and then wonder why he does not do it. By voting for fewer offices and making elected officials responsible for the appointment of their subordinates, or having most of the latter recruited through civil service and the merit system, it is felt that more efficient government could be achieved.

The extension and strengthening of corrupt practices acts is believed by many authorities to be necessary both in the Federal government and in the states. The elimination of spoils and invisible government will be an effective aid in reducing some of the worst evils in connection with present-day party government in the

United States. The extension of real civil service throughout the nation would promote efficiency in the public service and would elevate American politics to a new sense of dignity and usefulness.

Parties are inevitable in a democracy. If functioning properly, parties are of great value in the operation of the democratic process. A party is a means to an end, namely, sound, efficient, democratic government. Some of the worst results come when the party becomes an end in itself or a means for the aggrandizement of a few. Since control of the party is essentially control of the government, the public welfare and the fate of democracy today rest in large measure upon the character of our political parties.

TERMS TO BE UNDERSTOOD

representative democracy	State Central Committee
occupational representation	County Committee
Hare system	city and ward committee
presidential government	precinct
pressure politics	patronage
Jeffersonian Democrats	boss
"Old Guard"	the machine
biparty system	spoils system
multiple-party system	graft
National Convention	legislative caucus
National Committee	open and closed primary
"keynote speech"	short ballot
logical candidate	corrupt practices acts
"favorite son"	Hatch Act
"dark horse"	nonpartisan election
	platform

QUESTIONS FOR DISCUSSION

1. Why are parties necessary in a democracy?
2. Explain why the two-party system has developed and survived in the United States. Contrast our system with that of England and prewar France, showing our advantages and disadvantages.
3. What are the differences between the present Democratic and Republican parties? Do you favor their reorganization? Why?
4. Outline the organization of a major political party.
5. Why have not direct primaries solved the problem of bossism and machine government?
6. Indicate your main criticisms of American elections. Suggest a plan of possible improvements.

7. What part does propaganda and money play in American elections? What are your suggestions for solving this problem?
8. What is the function of a party platform?
9. Make a study of some recent successful politician. Analyze the reasons for his success. What does it take to be a successful politician?
10. Do you believe that American politics is a promising field as a career for young men and women today?

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PRESSURE GROUPS AND INVISIBLE GOVERNMENTS

PRESSURE GROUPS

The Representation of Interests. Government is no longer the simple thing it once was in the early history of this country. On the surface it appears that the process of government is the comparatively easy task of ascertaining the public will on a given question and then executing it. In reality, the actual process of government is a most complex one. Voters are themselves not agreed on politics and programs to be followed and align themselves with different political parties. In addition to the political party, there are many other groups who seek to influence governmental action. A pressure group is an organized group of individuals who, having certain interests in common, seek the fulfillment of their wishes through governmental action of one kind or another.

It is but natural in a complex society in which men cannot do everything for themselves that individuals having certain economic interests in common would look to government for possible aid. They organize and may hire a paid agent, who is known as a "lobbyist," to look after these interests. A program is formulated and efforts are made to exert pressure upon public officials to secure its enactment. These pressure groups are much in evidence in the Capitol, in the state legislatures, and the numerous local councils all over the country. These groups are frequently designated as the "third house," "invisible government," and "the powers behind the throne."

Pressure groups and invisible government constitute the unofficial government as distinguished from the official government provided under our laws and Constitution. If we are to get a complete picture of government in operation, the former must not be overlooked because of its importance as the source of actual political power and its influence upon the policies and actions of those who constitute the government. In the democratic scheme of government

the people themselves, the political parties, the public officials, and finally the numerous pressure groups, all play a part. When great multitudes of people with widely different interests attempt to live together in freedom, in peace, and in order there will be clashes in viewpoint and interest. The attempt to arrive at common policies in a democratic government comes to resemble a tug of war between the various social and economic groups, each contending for its own advantage with more or less regard for the common welfare.

Emergence of Pressure Groups. "One of the paramount problems of government in the United States today arises from the fact that our political system conceals rather than reveals the real combinations of forces which rule us."¹ There are many conflicting elements in American politics. The economic motive is one of the chief driving forces in the governmental process. There are many economic groups which exert a considerable influence in American politics. Sometimes these business groups work with one another; sometimes they compete with one another. Thus, for instance, railroad companies compete with trucking and bus companies.² On the other hand, despite a certain amount of competition, some businesses, like banks, insurance companies, and retail stores, have certain common interests as against other lines of business and as against other sections of the body politic.

In frequent conflict with business interests of the country there is the force of organized labor. Within the ranks of labor itself, however, there may be considerable competition, as in the case of the American Federation of Labor (AF of L) as opposed to the Congress of Industrial Organizations (CIO). As a matter of fact, the rivalry in a case like this may be of the most spirited type, amounting at times almost to a state of open warfare. Professional workers, as for example, doctors, lawyers, and teachers, have certain common objectives, but among themselves the members of each class are in continuous competition. This is also true of the underworld, which represents very active and powerful economic interests.

¹ Chester C. Maxey, *The American Problem of Government*, rev. ed., F. S. Crofts & Co., New York, 1936, p. 425.

² Advertisements sponsored by the railroads point out that railroads pay their own way, maintain their own roadbed, and do not depend upon tax funds to keep the roads open as in the case of other transportation agencies. The trucking companies reply that the gasoline taxes and license fees which they pay amply compensate for public highway expenditures.

Racketeers may stand together as a class but engage in bitter warfare among themselves.

The motives that prompt the emergence of pressure groups, however, are not always purely economic. Taxpayers' groups are interested in lowering their own taxes but they are also concerned about efficient government. Veterans' groups desire pension plans but are also motivated by ideals of patriotism, comradeship, and service. Local chambers of commerce want more profits for their businesses but also have in mind the objective of community welfare. Still others, such as racial, social, educational, recreational, patriotic, professional, and religious groups, may be prompted by motives which cannot even remotely be identified with economic interests.

It is to be expected that in a nation of 132,000,000 people there should be divergent groups, each striving to secure the enactment of a program suitable to its own purposes and each inclined to fight for its interests as over against those of other groups. It is also obvious that the varied interests of such a vast aggregate of people could not be adequately articulated without the intermediation of a complex array of organized groups through which the problems and aspirations of individuals find expression. The state, especially the democratic state, serves the primary function of peacefully reconciling these conflicting interests.

Some Typical Pressure Groups. Some of the more important pressure groups need specific mention. The business interests of the country are represented on a national scale by such organizations as the United States Chamber of Commerce and the National Association of Manufacturers, the American Bankers' Association, and many others. In general, these groups are interested in "safe and sane government," economy, a minimum of governmental interference and competition with business, and the preservation of free, private enterprise in American business. The manufacturers want their protective tariff and the bankers a "sound" money system. Their philosophy may be summarized by the advertising slogan appearing on many billboards, "What is good for business is good for you!"

The farmers of the country are represented by organizations like the National Grange and the American Farm Bureau. After a long, painful experience the farmers have learned the value of

organization to promote their interests. For many years they suffered a disadvantage in comparison with the more effectively organized business and labor groups. They now constitute a powerful and effective force in the national political arena. As a group, the farmers demand protective legislation, such aid as has come through the Agricultural Adjustment Administration, government intervention to restore "parity prices" for agricultural commodities, and similar governmental action.

Labor is represented mainly by the American Federation of Labor and the Congress of Industrial Organizations. While their two programs vary in detail, both are concerned with higher wages for workers, shorter hours, improved working conditions, social security, the right of collective bargaining, and the reduction of child labor. Special groups such as the Railroad Brotherhoods may have interests of their own which differ from those of organized labor generally.

Professional groups speak through such organizations as the American Medical Association, the American Bar Association, the National Education Association, the American Society of Engineers, and many others. The American Medical Association, for instance, has waged war on quacks and patent medicines. In recent years it has been perhaps the most potent force opposing the socialization of health and medical services.

Government employees have their organizations, as for example, post office employees, and various civil service groups. While such groups are not allowed to strike, they can petition for improvements in wages and working conditions and can bring considerable pressure to bear upon government for the adjustment of their grievances. Sometimes they may become a source of political power, directly or indirectly.

Ex-service men have organized to further their interests, as in the case of the American Legion and the Veterans of Foreign Wars. They are concerned with pensions, hospitalization of veterans, adequate national defense, Americanization, and related subjects. They constitute a powerful group.

Patriotic and nationalistic groups are found in the case of the Daughters of the American Revolution, the National Security League, and the Navy League. A number of new organizations have recently been formed to promote adequate national defense

and to combat the threat of Nazism. Many organizations parading under patriotic labels, however, pursue programs which could scarcely be called American, patriotic, or democratic.

Internationalists and pacifists are represented by a number of organizations, some of them affiliated with religious and political bodies and others historically associated with efforts made at the close of the First World War to interest Americans in the League of Nations and to break down an isolationist policy.

Finally, there are numerous reform organizations of one kind or another, each seeking to promote a specific social, economic, or political reform. Some of these are the Child Conservation League of America, the Civil Service Reform Association, the Anti-Saloon League, The Woman's Christian Temperance Union, the Tax Reform League, and many others.

One should not get the impression that pressure groups operate only in the case of the national government. It is true, of course, that Washington, D. C., is the paradise for pressure groups and lobbyists, over 500 being represented there.¹ While Washington is referred to as "The Happy Hunting Ground of Pressure Groups," there are many cases of pressure groups operating in state and city governments. In contrast to the full time professional lobbyists maintained in every state capital, and especially in Washington, city pressure groups usually designate ordinary executive officials or employees or volunteers to handle specific subjects. Some city pressure groups commonly found are the local chamber of commerce, taxpayers' associations, public utilities, banks, contractors, labor organizations, real-estate groups, public employees, the press, the underworld, reform groups, parent-teacher associations, service and women's clubs, neighborhood improvement associations, and churches.

Techniques of Pressure Groups. In general pressure groups conduct their campaigns along three lines, namely, (1) influencing of nominations and elections, (2) direct contact with and pressure upon members of legislative assemblies, and (3) general publicity and propaganda to mold public opinion. A good example of the first type was the case of the late Samuel Insull, who in the 1926 Illinois senatorial contest contributed heavily to the campaign

¹ P. H. Odegard and E. A. Helms, *American Politics*, Harper & Brothers, New York, 1938, p. 753.

funds of both parties. It so happened that a larger contribution was made to the Republican candidate because at that time he was chairman of the Illinois Commerce Commission and in a position to do Mr. Insull more good than his Democratic opponent. Mr. Joseph R. Grundy, president of the Pennsylvania Manufacturers' Association, raised over \$1,000,000 for the primary campaign of the Pepper-Fisher ticket in Pennsylvania in 1926. The reason for this large expenditure was the fact that the opposition candidate for governor proposed to shift a large portion of the tax burden from the coal companies to the manufacturers. The latter were practically tax free.¹ The "sugar interests" spent some \$750,000 in connection with efforts to obtain certain tariff concessions. The American brewers spent \$4,500,000 to defeat national prohibition. To offset this the Anti-Saloon League, considered by many to be one of the most effective lobbies ever organized, spent \$67,000,000 in the period 1893-1925.²

A careful check is kept by the pressure groups of the record of the legislative chambers. Elaborate card-index records are kept of each legislator. Many facts concerning his personal life are on file. Influence is exerted through direct personal contacts, through legislative agents, and through groups of influential citizens brought to the capital to testify before appropriate committees. The voters are encouraged to send letters and telegrams to their representatives. The lobbyist is on the job continuously to develop friendship by informal chats with the legislators in their hotel rooms. The handshake, the cigar, the game of poker, or the game of golf may all contribute to the same end. In some cases favors may be granted, and money or other gifts may be exchanged. Such methods today are much more refined and subtle than formerly. The use of intermediaries, of indirect persuasion, intimidation, and bribery, and the organization of "dummy corporations" help prevent disclosure. The "social lobby" is said to be the most insidious and dangerous lobby of all. A legislator, or better yet his wife, is given a chance to break into high social circles. Such insidious pressures as these can be at work without the legislator's even being fully aware of the fact that he is engaged in unethical or dishonest practices.

Propaganda is used freely. To be a successful lobbyist one must

¹ *Ibid.*, p. 667.

² *Ibid.*, pp. 754, 756-757.

be a master of or have at his disposal the fine art of propaganda. The press, the radio, and the movies are made use of constantly. Feature stories and news releases are supplied to the press. Speakers are sent out to churches, forums, schools, clubs, and other organizations. Propaganda campaigns in connection with tariff and public utilities have furnished classical examples. Needless to say, tremendous sums of money have been expended for such purposes. In 1913 Congress undertook an investigation of lobbying activities in connection with the passage of the Underwood Tariff Bill. It was revealed that the National Council for Industrial Defense, a manufacturers' organization, had spent \$1,500,000 in six years to aid the passage of favorable legislation and to defeat unfriendly legislation.¹

The Senate Committee, in investigating lobbying of the power industry in connection with the Wheeler-Rayburn Holding Company Bill in 1935, brought out some interesting facts. It was estimated that \$1,500,000 were spent to defeat the bill. A flood of telegrams and a deluge of letters poured into Washington. They were so timed and arranged as to give the impression that a veritable storm of indignation had burst forth in resentment against this bill. Following these protests came long distance telephone calls from friends back home. Evidence before the committee showed that one holding company spent more than \$134,000 for telegrams and telephone messages. This would mean that more than 235,000 messages were paid for by this one company on this one bill. Witnesses under oath have disclosed some of the methods used to send these telegrams. Some people were hired to get signatures and were paid for each message obtained. Others were hired by the day or week. Employees of the local companies were sent out for some of the messages. Company managers of stores and places of business obtained general authority from their clerks, janitors, and other employees.²

Evaluation of Pressure Groups. Pressure groups are a logical outcome of the complex of human interests in modern society. It should not be inferred, however, that all pressure groups are bad, or that all of their activities are necessarily contrary to the public

¹ P. H. Odegard and E. A. Helms, *American Politics*, Harper & Brothers, New York, 1938, p. 754.

² Hugo Black, "Lobbying: Legal Persuasion or Illegal Coercion?" *United States News*, August 12, 1935.

welfare. They do have a proper place in democratic society. A legislator cannot be a walking encyclopedia. Thousands of bills will be introduced. He cannot be expected to be an expert on all subjects. The lobbyist generally is a shrewd, well-informed specialist who can present many detailed facts to the legislative committee. He may be instrumental in presenting another side of the question. As long as the methods used are legitimate and the objectives are consistent with the good of society, lobbying may be a highly useful social activity. Bribery, intimidation, and false and misleading propaganda are of course to be condemned, as are the efforts of any section in society to obtain ends inimical to the general welfare.

Pressure groups are a response to some of the imperfections of our modern system of representative government. The increasing complexity of the governmental process has added to the difficulties. Pressure groups are in a sense practical devices to meet some of the problems which have evolved under our American form of representative government in the face of twentieth-century conditions.

Suggested Improvements. It has been suggested that all lobbyists be required to register and to disclose the amount, the sources, and expenditures of their funds. Another suggestion is to transfer much of the "petty business" now exercised by our legislative bodies to nonpolitical administrative agencies which, it is hoped, would be immune to pressure politics. Perhaps a greater use of direct legislation (the initiative, referendum, recall) or its threatened use may have a wholesome effect. Another great need is better sources of information for the average citizen. More facilities to provide reliable, unbiased facts would help to combat the endless round of propaganda which confronts the citizen every day. United States Commissioner of Education Studebaker has confidence in the power of a nation-wide system of public forums.¹ In the last analysis an alert, informed, intelligent citizenry who would elect representatives of ability and integrity is the best bulwark against the insidious pressure of lobbyists:

INVISIBLE GOVERNMENT

The Nature of the Problem. We have too frequently assumed that because we go through certain rituals or forms in a democracy,

¹ J. W. Studebaker, *The American Way*, McGraw-Hill Book Company, Inc., New York, 1935.

it follows that we have the spirit and substance of real democracy. We have, of course, our franchise, the primary, the convention, direct legislation, and other mechanisms which seek to promote the democratic process. The electorate, however, too seldom looks beneath the surface of things to see what is really happening. Instead of the majority controlling, it may be a relatively small minority dominating the situation. Elective public officials may be subservient to political bosses who in turn have no responsibility to the voters as a whole. The political party may be controlled by the Old Guard or the bosses who in turn are obligated to certain powerful interest groups who maintain them in power.

We are accustomed in the United States to attribute certain unsavory aspects of our political life to the existence of political machines. The term "political machine" may refer to the regular party organization when it operates with a high degree of efficiency. Ordinarily, however, the term has a more sinister connotation. Sometimes a superstructure consisting of an informal group of political leaders including a boss may be imposed upon the regular party organization. This small group of leaders may have such skill and power in the management of the party organization that they constitute a "machine." In other cases a single exceptionally astute leader may be so successful in winning elections, in maintaining the party in power, and in dominating the government which his faction or party controls that he will generally be acknowledged as the "boss" of a political machine.¹

Other examples of the one-man or the small-clique control in machine organization can be found especially in our large cities, although some machines have also achieved control over the politics and government of whole states. Invisible government results when the machine organization under the leadership of the boss operates in collusion with certain business interests, racketeers, or criminal elements for their mutual financial benefit.

Conditions Promoting the Machine and the Boss. Modern government is no longer the simple thing it once was in pioneer days. "Pure" democracy, for the most part, has given way to complex "representative" democracy with its attendant weaknesses. The extension of governmental services has witnessed the increase

¹For a further detailed account of types of machines see Harold Zink, *Government of Cities in the United States*, The Macmillan Company, New York, 1939, Chap. 12.

in the number of public offices with the natural result of the "long ballot." Added to this has been the general apathy of the average citizen who has shirked his civic responsibilities. As a consequence we have seen the development of a highly organized spoils system and the evolution of an increasing class of professional politicians accompanied by machine government, bossism, graft, and invisible government. This condition constitutes one of the greatest challenges to modern democracy today.

Another major factor aiding machine and boss control is the unprogressive character of our election laws. Our laws discourage the entrance of new parties and independent candidates in elections. Independent voting is discouraged by the type of primary where the voter must reveal his party affiliation. The party circle on the ballot encourages straight voting, with the result that party politics rather than the merits of individual candidates receives the major emphasis. Frequently the regulation of the party by the government is inadequate to protect the public welfare. Patronage, special privilege, and contracts often are of more moment to the party and its bosses than are the great principles we hear so much about in election campaigns. It is the great game of American politics.

Another significant aspect of the machine is its capacity to render a wide variety of genuine services to people of all classes, but especially to the poor. The machine plays upon human need in many ways. Food, clothing, and shelter are provided for the needy; jobs for the unemployed; hospitalization for the sick; legal protection for those who have run afoul of the law. These and many more services which the government or the public fails to provide are made available to people, and it is upon this basis that the political machine makes its most effective appeal for votes. People vote for the machine slate of candidates out of a spirit of gratitude for favors received. Reformers are prone to talk in terms of idealistic approaches to the solution of this as well as other problems, but until they can provide some substitute which will take the place of this practical, human appeal, little progress will be made in the permanent solution of machine and boss government.¹

¹ See Lincoln Steffens, *The Autobiography of Lincoln Steffens*, Harcourt, Brace and Company, New York, 1931, for the contrast between effective and futile attempts at reform.

Some Characteristics of the Machine. The political machine is an outgrowth of our party system. The machine and invisible government go hand in hand. The most complete and elaborate machines are usually found in our large American cities where the conditions are more conducive to their growth. In the cities people do not know each other very well. It is more difficult to develop the neighborly spirit. There are many positions to be filled on election day but the average voter has a feeling of bewilderment because he knows so few of the candidates. The presence of many immigrants who are not familiar with our political institutions gives the machine a good opportunity to befriend them. Out of a feeling of gratitude these people frequently vote the machine slate of candidates. Many homeless men in the cities find in the political organization sociability, sympathetic understanding, and at times material aid. The long ballot and the complexity of city elections encourage the use of vote frauds to gain political power. This political power is further augmented by the machine in its use of spoils, patronage, favors, the awarding of contracts, and the rendering of numerous services to the voters.

A machine is usually characterized by political success, concentrated control, and smoothness of operation. It is an opportunistic organization, being concerned with power and tangible material gains, and will use such means and methods as will enable it to attain these practical ends. Self-interest predominates throughout its activities. It makes its appeal to the people primarily on a service basis, real or pretended. The machine is well disciplined from the top down. Each man has a definite job to do and he must subordinate himself for the good of the organization. He must develop the attributes of loyalty, industry, and service to the party at all times.

Many alliances will be made by the machine, some with its friends and some with its enemies. Bipartisan political agreements are common in American cities. Unholy alliances are frequently made between the machine and the underworld elements. The principle of "rewarding your friends and punishing your enemies" is in constant application. Graft characterizes the strongly entrenched political machine. The American political machine is built upon spoils and privilege, fortified by human avarice, and tolerated by public apathy.

Typical Political Machines. There are many examples of successful machines in American political history. The oldest and most famous is the Tammany organization in New York. The Society of Tammany, or the Columbian Order, was formed in New York City in 1789 to counteract the so-called aristocratic Society of Cincinnati. It derived its name from a noted friendly Delaware chief named Tammany who had been canonized by the soldiers of the Revolution as the patron saint of America.¹ Indian names were used to designate the officers of the Society. The purpose of the organization was originally social, but in 1800 it entered politics under the banner of Aaron Burr. During the nineteenth century Tammany rose rapidly in power, aided by its practice of befriending many of the immigrants who came to our shores. As a Democratic organization it has become at times a power in the politics of New York City, in the state, and even in national affairs.

Aaron Burr was its first principal leader. He was succeeded by Fernando Wood, leader of the party in 1850, sponsor of the boss system and thrice mayor of the city. The unsavory boss system reached its peak in the regime of William M. Tweed, the originator of the notorious "Tweed Ring," through whose manipulations some \$80,000,000 disappeared from the city treasury. An exposé followed, Tweed was imprisoned, and Tammany lost much of its popularity. Tweed's successor, John Kelly, helped to regain much of its former power. However, from that time to the present, Tammany has had its ups and downs. Many political abuses were developed and frequent investigations were made. In 1931 the Seabury investigation forced the resignation of Mayor Walker, who was succeeded by John P. O'Brien, a Tammany supporter. The latter was defeated by Fiorello H. La Guardia, the Fusionist candidate in 1933. Since that date the political fortunes of Tammany were believed to have waned considerably. However, in the 1941 New York mayoral elections, Tammany showed a remarkable revival of strength, for although the incumbent, Mayor La Guardia, won by some 130,000 votes, the Tammany candidate, O'Dwyer, polled over 1,100,000 votes.

Virtually every large American city has had its machine control at one time or the other. Philadelphia has had its famous Vare

¹ *The Standard American Encyclopedia*, Vol. 12, The Standard American Corporation, Chicago, 1937.

machine. The Prendergast machine dominated Kansas City for many years until very recently. Cincinnati had its machine and bosses prior to the advent of its city-manager regime. The names of Cox, Herman, and Hynicka figured prominently in the history of this Ohio town. Chicago has had many machines in its history, both Republican and Democratic.

The failure of one machine will frequently mean the success of some other machine. Even the most formidable machine will crumble in time. It has been estimated that the average life of a machine in Chicago is about ten years.¹ Overconfidence with its successes, the increasing cost of government, internal dissension, the waste of public funds, and the loss of its vigorous leadership are some of the factors which lead eventually to disintegration. The public tires of the same group feeding too long at the public trough and desires a change, even though the new group succeeding may not be much better, or in fact might even be worse. New names and new faces become the order in politics as in so many other walks of life.

The Operation of the Machine and Boss System. Among the factors which make the boss possible are the stakes of the game. Were these stakes not so great the machine, and in turn the boss, could not exist. As Professor Munro says, "a political machine, like Napoleon's army, marches on its stomach."² One of the stakes is possible favors to businessmen. There are franchises for street railways and bus lines, pier leases, contracts for supplies, and the adjustment of assessment valuations. Just as the businessmen may have merchandise for sale, the boss is a broker who deals in the sale of privileges for a consideration. Professor Merriam speaks of this as the alliance of the underworld of politics with the upper world of business."³ Brand Whitlock has stated the situation as follows:

The boss is not in politics for principle; he is not always in politics for politics; he is in politics for business. He wants something to sell, something for which in certain quarters there is a demand, something for which a certain few will pay high — that is, privilege.⁴

¹ *Chicago Daily News*, Jan. 29, 1941.

² W. B. Munro, *Personality in Politics*, The Macmillan Company, New York, 1925, Chap. 2.

³ C. E. Merriam, *Chicago, a More Intimate View of Urban Politics*, The Macmillan Company, New York, 1929, pp. 51-53.

⁴ Brand Whitlock, *Conference for Good Government*, 1907, p. 199.

It is a mistake, however, to assume that it is only the so-called big shots who may ask for certain favors. The average citizen may seek the politician's aid in getting his tax bill reduced. He may wish to have a building permit or hang an electrical sign in violation of a city ordinance. A relative may want to get on the public pay roll. A group of young men may want to get a meeting place for their Social and Benevolent Club. There are a thousand and one favors for which a politician will be solicited, and by many respectable people.

This leads to a second important factor in building up machine and boss control, namely, the spoils system. Even the President, in order to get certain legislation through the national Congress, must occasionally dangle before the eyes of the Congressmen juicy plums of political spoils to get their support. In American politics "Senatorial courtesy," "logrolling," and "pork barrel" politics have their place and are a part of the system as much as the Constitution of the United States. In other words our American political system nurtures the machine and boss control.

The party in power always has the advantage because it has control of the "plums." Control of jobs goes beyond the public service. Through having done favors, the politician has a good contact with the public service corporation, private business, and even trade unions, where he can place some of the faithful.

It is safe to assume that government is in large measure a reflection of our economic order. The political machine, with its boss rule and its extravagance, has its roots deeply imbedded in poverty. Kindness and human understanding are reflected in the many activities of the machine. The father who receives a basket of groceries for his undernourished family is not apt to inquire as to the motive of the precinct worker who delivers it to the home. The poor family which is shivering from the cold does not look upon a gift of coal as a form of graft. The party headquarters are always open to the poor man and there he finds a sympathetic listener to his woes. Action is prompt with a minimum of red tape. After all, the rich have their lawyers, advisers, and influential organizations to which to turn; the masses have their precinct captains and their aldermen.

There is, therefore, little mystery in the position of the boss and the machine. Service and self-interest are basic. Through spoils

and favors the organization maintains itself. Oftentimes reformers do not understand the basis of machine government. The essentially human character of the institution is overlooked. If it continues to administer to human need, it will have substantial reason for its existence. The system as such may be wrong, but the good citizen must not simply turn up his nose and sneer at "dirty politics" without taking account of the genuine social problems upon which the system thrives. It is very convenient to blame the politician for the corruption which exists but it is much more difficult to correct the defects of our social, economic, and political order which make his existence possible.

Other Factors in the Success of the Machine. The use of spoils, favors, and aid to the poor enables the organization to build up its voting strength. Every jobholder is a worker in the organization. Each pay-roller controls a certain number of votes. Employees in many cases must solicit votes before election day rolls around.

The machine gets its most effective control through its domination of the party primary. The organization vote is always out on election day regardless of the weather. The machine organization can by a comparatively small vote control the primary, and frequently success at the primary is equivalent to election. Too many people consider the primary unimportant when actually it may be decisive. The independent vote to a large extent does not respond. Antiquated election laws encourage straight ticket voting. Voters are regimented under the closed primary laws which require a voter to reveal his party affiliation and thus permit the machine to maintain control over its adherents. Independent candidates find the many legal requirements under our state laws very discouraging in their attempts to put out a reform ticket.

There is therefore much that can be done to improve the mechanics of the system to reduce the power and the influence of the boss and machine government in American politics. Not the least of these needs are the elimination of vote frauds, the use of voting machines, and the selection of higher grade election officials.

Once in office the machine has many sources of income. Contributions can be solicited from firms and businesses which are in a position to get government contracts. Public employees may be assessed a certain percentage of their salaries for campaign purposes. Candidates for public office are assessed a certain amount

of money. Picnics, card parties, testimonial dinners, dances, and other devices are used to swell the party campaign fund. Sometimes money may be derived from the protection of gambling, vice, the liquor traffic, and racketeering interests of one kind or another. It is evident that the party in power has a tremendous advantage over the party that is seeking to get control of public office.

Sometimes an attempt has been made to distinguish between "honest" graft and "dishonest" graft. Many years ago the late leader of Tammany Hall in New York, George Washington Plunkitt, sought to clarify the distinction.¹ Suppose one were in a position to get advance information that the Park Board or the Board of County Commissioners was going to buy a certain tract of land. After receiving this tip, one would quietly purchase this land at a small figure and then sell it for a much larger price at the convenient time. This would be a case of good business, just honest graft. On the other hand, if one were to accept money for blackmail purposes or from gambling establishments, houses of prostitution, or the criminal or racketeering elements, then that would be clearly a case of dishonest graft. From an ethical point of view this distinction as drawn by Plunkitt could not be justified.

It needs to be pointed out that we have graft in government because we have graft in business. Wherever there is a politician taking graft, it will generally be from the hands of some respectable businessman who is buying something he wants from the politician who has something to sell. It has even been maintained that there is no more graft in government than in business.² We are much more likely to hear about the former, however, because the newspapers play it up. Most waste of public funds can be attributed to a certain amount of inefficiency, overlapping, and duplication of services than from outright graft itself. Therefore, if we would eliminate graft, we might begin by improving our business practices and by encouraging higher standards of ethical conduct in everyday relationships. It is easy to blame government and public officials for something which is deeply rooted in the foundations and practices of our economic system.

¹ William Riordan, *Plunkitt of Tammany Hall*, Doubleday, Doran & Company, Inc., New York, 1905, pp. 3-10.

² See S. McKee Rosen, *Political Process*, Harper & Brothers, New York, 1935, pp. 95-96.

The Political Boss. It sometimes happens that one man may seize so much power in a political organization that he becomes its boss, using every possible means to entrench himself much as a dictator would do in a totalitarian state. In such a case the real powers of government are not lodged in the hands of the duly elected public officials but are to be found in the boss himself. The latter, as a general rule, will not hold any public office except occasionally, and in this instance, it is likely to be as a "front." The boss, after having seized his own power by extralegal means, will be the real authority behind the scenes.

The political boss lacks legal authority to issue orders, but because he has actually seized the power and has built up his prestige, sometimes by the use of sheer physical force, he is in a position to command officials to do his bidding. The boss looks to himself for his authority. Financial gain and the love of personal power generally are his main motivating forces. It is a mistaken conception, however, to assume that every boss is always corrupt and has nothing but contempt for the public.

Professor Zink has made some interesting observations concerning bosses.¹ They usually come up from the ranks and are likely to be native sons of the local community. In their youth love of power and qualities of daring are commonly manifested, sometimes in connection with gang activities. At an early age a strong propensity toward politics is characteristic, beginning generally in a minor role in the precinct. As they reach their majority and demonstrate their worth in a practical manner, new fields of opportunity will be opened to them. By this time they may become precinct committeemen and as a reward they will be put on the public pay roll. At the opportune time as they further prove their ability, they will be put up for some elective position as city alderman or state legislator.

Being possessed of strong ambitions and exceptional energy, the prospective bosses will usually climb from one position to another. It now becomes a process of the survival of the fittest. The one who is extremely shrewd, capable, and who has capacity for organization, will emerge on top. In this competitive process, much will depend upon industry, energy, ruthlessness, and even luck.

¹ Zink, *op. cit.*, pp. 198-211.

It is a fallacy to assume that political bosses are ignorant. It is true that, as far as formal education goes, few as a rule are college graduates. They are generally self-made men, educated in the school of hard knocks. However, it is not at all unusual to find some well-educated men among them, especially in the case of more recent bosses.

The typical boss is likely to be a large man physically. This is not surprising when one considers the strenuous life he leads. The average boss comes from a comparatively poor home. It seems that although the Irish have (probably because of their concentration in cities and early participation in politics) contributed more than their share of bosses, virtually every nationality is represented among the bosses, past and present, in the American political scene. We are prone to think of bosses as heavy drinkers and excessive indulgers in vice. Actually, a boss, to be successful, must be temperate and self-controlled. Frequently, bosses manifest an interest in religion. Bosses as a rule are hard workers, take their jobs seriously, and have a well-developed knack of getting along well with people.

An editorial entitled "Seven Rules for Bosses" makes some interesting suggestions:

Here are some rules of successful boss-ship that can be deduced from the lives of great bosses:

1. A boss must never interfere with the personal habits of the people. Tammany version — "Never get between the people and their beer."

2. A boss must give at least the appearance of good government. At the minimum, this means a snappy, polite police force and clean streets and alleys.

3. Never interfere with the schools or the courts. This is one secret of the amazing power of the Prendergast dynasty in Kansas City.

4. Always preserve a protective attitude toward the people in utility matters. Cf. Tammany Hall's preservation of 5-cent subway fare; the life of Tom L. Johnson of Cleveland; the success of Boss Edward H. Crump of Memphis.

5. Keep the city's credit good.

6. Like the presidency, like all governorships and mayoralties, a boss-ship carries the necessity of benevolent paternalism toward humbler citizens.

7. Polonius' formula, "Costly thy habit as thy purse can buy," is good dope for bosses. . . . A good tailor is as essential to boss-ship as it is to statesmanship.¹

The philosophy of a political boss was bluntly put by Thomas Joseph Prendergast, ex-czar of Kansas City, Missouri. His oft repeated words were:

¹ *Chicago Daily News*, Apr. 16, 1936.

"By God, we feed 'em and we vote 'em." On another occasion he was quoted as saying: "I am honest with the people. I give them a good government. I take care of the poor. I give out all the jobs I can find. . . . I am the home relief of Kansas City . . . a political boss doesn't have to be a grafter or robber . . . all he has to do is to serve the public, make friends and do the right thing."¹

SUGGESTED REMEDIES

A number of suggestions have been made for minimizing the evils of pressure politics, invisible government, and bossism. The extension of civil service is a definite blow to invisible government. Removing patronage is taking away the sustenance on which machine organization thrives. A more effective control of the party in the public interest is needed, as is greater public control of the party's expenditures and its activities. The voter needs access to the actual facts of government instead of the propaganda with which he now is deluged. Public forums and radio "Town Halls" may be of help. There is a need for the constant education of citizens in school and out for the tasks of American citizenship. The revision of antiquated election laws looking to more citizen control over the electoral process is important. More intelligent and widespread citizen participation in the political process might be stimulated by readable, concise, and understandable government reports to the public by the officials. The unholy alliance between crime and politics may be broken through vigorous publicity and effective law enforcement. The simplification of government to give the average citizen a better chance to know what it is all about should be a decided help on this as well as on other problems. Finally, it should be remembered that in many cases it is the good citizen who is willing to accept a favor for his own personal gain, who is at fault. As long as good people are willing to sell out their own government we cannot expect much improvement in this situation. Personal gain and avarice constitute one of the great enemies to good government. Ignorance and indifference are twin sisters to avarice. Good government will not come until we insist upon having it.

TERMS TO BE UNDERSTOOD

pressure group	spoils system
lobbyist	invisible government
social lobby	Tammany Hall
the machine	closed primary
the boss	"honest graft"

¹ *Pathfinder Magazine*, Apr. 16, 1938.

QUESTIONS FOR DISCUSSION

1. What are the techniques of pressure groups and lobbyists? Why is it that the "social lobby" is said to be the most insidious and dangerous lobby of all?
2. Do you believe that pressure groups are primarily a social good or an evil? Support your position with specific reasons.
3. Suggest a program whereby the good of pressure groups can be maximized and the evils minimized.
4. Do you believe with George Washington Plunkitt that there is such a thing as "honest graft"? Explain fully.
5. Why do political machines tend to flourish in large cities?
6. What are the modern conditions that make machine and boss government possible? What can be done to solve this problem?

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THE DEMOCRATIC PROCESS

DEMOCRACY IN THEORY AND IN PRACTICE

The Meaning of Democracy. The word "democracy" comes originally from the Greek, *demos*, "people" and *krateia*, "rule." The theory and the ideal of democracy are very old, going back to ancient times, but the successful operation of democratic institutions on a large scale is a comparatively modern phenomenon. Prior to the nineteenth century the people of the world fought for the right to establish it; during the nineteenth century the main emphasis was upon its expansion; twentieth-century democracy is increasingly menaced by the constant inroads of totalitarianism throughout the world. The problem today, therefore, is how to preserve the former gains of democracy and at the same time make it function successfully to meet the complex needs of our changing social order.

In general, democracy is that form of government in which the sovereign power is in the hands of the people collectively and is exercised by them either directly or through elected representatives.

There are different varieties of democracies in the world today. The concept of democracy has undergone change among different peoples from one historical era to another. Even within our own country we have seen the changing character of American democracy. Democracy is not a matter of form of government alone. Much will depend upon its actual operation. The theory may be one thing, the practice something entirely different. England, for example, in form is a monarchy but in fact has many of the basic features of a democracy. The United States, on the other hand, is a democracy in form, but we are far from having attained the democratic ideal in actual practice. We often have minority rule, lack of proportional representation, and the rule of political bosses and machines. As a people we do not always give democracy a fair chance to function properly. This may be due to obsolete govern-

mental forms or to the indifference and ignorance of a considerable portion of the people. It is therefore important to study both the form and operation of government to get a realistic picture of democracy.

A Comparison of American Democracy with Others. In the United States we commonly designate our democracy as a "government of the people, by the people, and for the people." We speak of it as a government based upon the majority will, upon the principle of the greatest good to the greatest number of people. Ours is a federal and presidential type. By "federal" is meant a government which has a division of powers between the central authority and the individual states which are members of the union. A convenient distribution of powers will grant certain exclusive powers to the Federal government and some to the states, while other powers will be denied to both governments. In order to maintain this system a written constitution is necessary. Cases in dispute are settled by the Supreme Court through its power of judicial review. A presidential government is one that has a single instead of a plural executive whose powers are separate and distinct from those of the other two departments of government. In order to maintain a proper balance of power between the three departments of government, a system of checks and balances is used. An example of this would be the veto power of the President over acts of Congress. On the other hand, the Congress could impeach the President. Finally, the Supreme Court, through its power of judicial review, has the power to declare an act of the Congress null and void because it conflicts with the supreme law of the land. Ours is a representative democracy wherein the people elect representatives who carry on the governmental process in their name.

England is a unitary; parliamentary democracy. By unitary is meant a system in which the governmental powers are centralized rather than divided with some other government. In a parliamentary government no effort is made to keep the three departments of government equal because it is an accepted fact that the legislative branch is supreme. Despite the existence of the monarchy and the House of Lords, English democracy carries on with increasing vigor. Since 1689 English Constitutional history has been characterized by the decline in the powers of the king; the rise of the House of Commons; the diminished powers of the House

of Lords; and the ascendancy of the cabinet. These fundamental changes have taken place through an evolutionary process without disturbing the stability of the government to any marked degree. Division of powers, checks and balances, and judicial review are lacking in the English system. Their Constitution is largely unwritten, consisting chiefly of customs and usages which reflect the English way of life.

France, under the recent Third Republic, represented another parliamentary democracy. However, it did not have the stability of the English government, frequent change being characteristic throughout its history. This weakness has been ascribed to many factors: too many political parties, the French temperament, the weakness of party ties, and the extreme right of cross examination of the government group by members of the Chamber of Deputies. This instability of the government has been a serious weakness in time of peace and war. This has been regarded as one of the contributing factors in the recent fall of France.

Democracy vs. Dictatorship. The First World War witnessed a major threat to the advancing march of democracy. Confusion, disorganization, and world-wide depression followed the war. The chaotic conditions of this period afforded an ideal opportunity for the dictator. Taking advantage of the unrest and distress of his people, the Fascist dictator offered himself as a "redeemer" to bring about a new world order with the promise of glory, plenty, and security. Generally using legal means at first to avoid suspicion as to the real motives, the dictator built up his power and at the opportune moment boldly seized complete control of the government. By military power, by the use of the secret police, repression, purges, and propaganda, the people were soon enslaved. Then followed a series of conquests of other states of Europe, large and small.

Under the totalitarian philosophy the state is supreme and is an end in itself. Individual rights are sacrificed. The state, by a process of regimentation, extends its powers over the individual, the family, industry, agriculture, labor, and the schools. A well-knit plan of censorship and propaganda is maintained. The ruthless hand of force suppresses any opposition to its program. There is much talk concerning racial superiority and a new world order, and democracy is held in contempt. War is glorified as the best means of social progress. There is only one legal political party,

namely, the official party of the government. These traits of the totalitarian state are glaringly exemplified by Germany and Italy, and some of them are found in Spain and Russia as well.

Within the past few years we have seen the extension of totalitarianism on a large scale. Democracies have been conquered and still others are being threatened. It has become a world struggle, involving even the Americas. It is essentially a world conflict between two opposing ideologies and two incompatible ways of life and forms of government.

The general problem of democracy today may be said to consist of two general phases. First, there is the problem of preserving it in the world at large and of retaining the gains already made in the face of the formidable assaults made upon it by the totalitarian states. Second, there is the problem of preserving and extending democracy at home. The American way of life is based upon orderly processes of change, the use of the ballot, constitutional government, individual rights, and equalization of opportunity. These achievements are not maintained automatically but only by constant struggle and vigilance.

The Changing Pattern of American Democracy. The original federal Constitution as drawn up in 1789 did not contain the Bill of Rights safeguarding certain civil and political rights of the individual. The incorporation of the first ten amendments in 1791 remedied this. At the time of the adoption of the Constitution only a small percentage of the adult white males could vote, due to the numerous religious and property qualifications upon the franchise. "The qualifications for voting, as fixed by the local assemblies were not very broad. It was a select few, an aristocracy of property-ownership, taxpaying, and religious conformity that cast the ballots and occupied the public offices."¹ During the Jacksonian era, or about 1830, many of these restrictions were removed. By the Fifteenth Amendment to the Constitution in 1870, the vote was extended to Negroes. In 1913 by the Seventeenth Amendment, provision was made for the direct election of United States Senators who up to that time had been elected by the state legislative bodies. The passage of the Nineteenth Amendment in 1920 extended the franchise to women.

¹ Robert Phillips, *American Government and Its Problems*, Houghton Mifflin Company, Boston, 1941, p. 510.

American democracy has expanded since the days of the founding fathers. One phase has centered around the extension of the suffrage to increasing numbers of people who had been denied the right to vote. A second aspect has had to do with the improvement of the mechanics of democracy. Examples of the latter are the establishment of the national nominating convention for the nomination of candidates for President and Vice-President; the development of the Australian, or secret, ballot system; the direct primary, and the initiative, referendum, and recall. About 1840 the national nominating convention supplanted the legislative caucus as a method for the nomination of candidates for President and Vice-President. Previous to this time members of Congress nominated these candidates. About 1888 the Australian or secret ballot system was introduced into this country. Prior to this time the parties printed and distributed their own ballots at the polls. The element of secrecy in voting was lacking. The Australian ballot system required that only the official ballots printed by the government be used at the polls, and that secrecy in voting be provided. The direct primary came in response to popular demand. Nominating conventions were frequently boss-controlled. The primary was instituted to give the people an opportunity to nominate their candidates by direct popular vote. This movement was under way in the latter part of the 'nineties of the last century and today the method is found in practically all of the states. About forty years ago direct legislation was introduced into this country to give the people an opportunity to vote on specific legislative proposals and to give them a chance to initiate their own bills either directly or in conjunction with the legislature. These subjects will be discussed in greater detail later in this chapter.

ELECTIONS

Their Importance. Our society is too large, complex, and heterogeneous to permit all of the citizens to come together face to face and agree on their essential common interests directly. The New England town meeting is the nearest approach to anything resembling this simple form of government in this country. Instead today we elect representatives who in turn carry on for us under the principle of "representative government." Elections are the very heart of the democratic process. In our early history elections were

comparatively simple. Today they are much more complicated and elaborate, requiring detailed organization and volumes of legal regulations for their orderly operation.

Nominations. Under the complex conditions existing today in a democratic government, some machinery must be set up to take care of the nominating process. It must be borne in mind that many of our people live in the greatly congested centers of our large cities where it is very difficult to know individuals personally. Indeed, one might not even know his neighbors who are living in the apartment next door. Moreover, nowadays there are many more officials who come up for election than formerly. There are 175,000 governments in the United States with approximately 700,000 to 800,000 elective officials.¹ There is obvious need for adequate machinery which will function smoothly and efficiently in accordance with the democratic process, to facilitate the nomination and election of public officials.

In the early period of our history, the self-announcement or self-nomination system was used. This was the practice in Rome and England when popular government got under way. It was common in the southern colonies, where, as in England, small cliques of wealthy landlords got together to control the nominating process. This method of nominating candidates for local offices continued in the southern and southwestern states as late as the Civil War.²

Nominations in New England and the Middle Colonies were usually made at "parlor caucuses." These were private meetings of persons who were especially interested in controlling public affairs. Such groups got together and agreed upon candidates. During the American Revolutionary period caucus clubs were very prominent, as for example, the Boston Caucus Club. The caucus as a nominating system was well established in New England and the Middle States by the time of the Revolution. Subsequently it lost its secret character and became a meeting for the party voters in a given electoral district.

As time went on, the caucus method became impractical. In the larger cities it was too difficult to get all the interested persons to-

¹ C. E. Merriam and H. F. Gosnell, *The American Party System*, The Macmillan Company, New York, 1930, p. 243.

² Charles M. Kneier, *City Government in the United States*, Harper & Brothers, New York, 1934, Chap. 14.

gether in one place. When they did meet the organization became unwieldy. There was also some dissatisfaction with the choice of candidates under the caucus because in a number of instances they were hand-picked by a few influential persons in the party.

To meet the difficulties arising under the caucus plan, the delegate convention system was devised. This was the method in common use from 1830 to 1900.¹ Its base continued to be the local caucus or primary, which carried over from the earlier period. In essence it was a meeting of the voters of the party for the purpose of nominating elective officers in the local community, and in addition, choosing delegates to a city or county convention which in turn would select nominees in those districts and name delegates to the still higher district and state conventions. However, it was not long before many evils manifested themselves. Voters lost interest, bosses controlled the delegates, and fraud and violence were frequent. Floaters, saloonkeepers, and similar elements were much in evidence. This method, furthermore, generally failed to produce superior candidates. About 1840 the National Nominating Convention was established, as a result of the Jacksonian movement, to nominate candidates for the presidency and vice-presidency. This method is still in use today.²

The nominating convention, while a step forward as contrasted with the caucus, was far from adequate to insure democratic nominations. To overcome the apparent weaknesses of the convention method of nominating candidates, the direct primary was established about 1900.³ The belief was expressed that this new method would take the control of candidates away from the bosses and place it in the hands of the people. Under the direct primary the voters of each party went to the polls and nominated the various candidates directly. Such a direct primary law was enacted in Wisconsin in 1903. Not long afterwards other states followed suit. The direct primary is now found in all states except Rhode Island, Connecticut, and New Mexico.

It is significant that not all the hopes of the direct primary have been realized. Repeatedly dissatisfaction arose with the existing

¹ Arnold J. Lien and Merle Fainsod, *The American People and Their Government*, D. Appleton-Century Company, Inc., New York, 1934, Chap. 28.

² Jeremiah S. Young, J. W. Manning, and J. I. Arnold, *Government of the American People*, D. C. Heath and Company, Boston, 1940, p. 137.

³ *Ibid.*, p. 134.

method for nominating candidates because of the tendencies toward boss control. The high hopes which inspired the movement have not been fully realized. The machine organization often merely circumvents the intention of the law in that it selects its slate of candidates in advance of the primary, and frequently the people are forced to choose between one machine's candidates as against another's. This does not mean, however, that the direct primary system is a complete failure. It means that the present laws should be strengthened in the public interest, retaining the desirable features.

The Closed and Open Primary. There are two general classes of primary laws, namely, the closed and open primary. In the closed primary the voter is given only one party ballot and his party affiliation is made public by being recorded on the poll books. It is this type of primary that encourages machine domination for it is here that the machine has all the advantages. Many of the good citizens will not vote because they have to declare themselves as of one party or the other. Independent-minded people dislike this. Consequently, many voters of independent views remain away from the polls at a time when they are badly needed. Under these circumstances the machine, with its intensive organization and its thousands of party workers, may easily control the primary with a comparatively small vote. The closed primary puts the voter definitely on record that he voted Democratic or Republican, and in some states he must hold to his party affiliation for a certain specified time, as in Illinois, for example, for two years. It is very evident therefore that the political machine favors the closed primary. In one form or the other, it is in use in most of the states.

In a few states the open primary is in use, namely, Montana, Wisconsin, Minnesota, and Washington. This means that the lists of candidates for the separate parties' nominations are printed in separate columns on one large sheet, or are printed on separate slips and clipped together, so that each voter gets the entire list. Then, in the secrecy of the voting booth, he marks his choices on one and only one of the party lists. In this way no one knows for which party he voted and no record is made as to his party affiliation. Furthermore, he is not obligated to vote the same party at the next primary election.

One criticism made of the open primary is that it encourages

wholesale "raiding," that is to say, there is nothing to prevent normally Republican voters from participating in Democratic primaries, or vice versa. However, all things considered, the open primary is superior to the closed system and is one of the many agencies working for better government.

Election Administration. The national government leaves the matter of the regulation of primaries and elections to the state and local authorities. In the majority of the states the secretary of state is the principal officer in charge of elections. The governor and attorney general may have some responsibility in the matter. A few states have state election boards. The secretary of state will compile and publish the state election laws, publish notices of state elections, and help in the canvassing of the votes. Below the state, the county serves as the principal unit for the administration of elections. Some of the larger cities have their own independent organization for the conduct of their own elections. In many places there is a division of responsibility and a great deal of confusion in the control of this important function. In the county it is usually the county clerk or auditor, an elective official, who has general charge of elections and primaries in his county. He has general charge of the detailed clerical work involved in the administration of elections. He assists the county canvassing board in making up the final official count and report of the election, and sends a final report to the secretary of state.

The smallest unit in the organization of elections is the precinct which in the 1936 election had an average of 360 voters over the entire country.¹ In each precinct there is for each election or primary a board of elections made up usually of three or four persons who are selected by the local party leaders.

Improvement in Election Administration. The common American practice of bipartisan appointment of election officials has not produced the desired results. Bipartisan "shady" deals are all too common in our American cities. It has therefore been proposed to select election officials on a nonpartisan basis through competitive examination. College students (if legal voters), members of civic organizations, and others, possessing standards of intelligence and education, should be encouraged in this worth-

¹ William Anderson, *Fundamentals of American Government*, Henry Holt and Company, Inc., New York, 1940, p. 242.

while endeavor. Cases of election frauds should be vigorously prosecuted. The office of county judge, hearing election fraud cases, should be on a nonpartisan basis. The county judge might be appointed for life similar to a federal judge to remove the office from the influence of partisan politics.

Some European countries use Sundays for elections. Underlying this practice is the idea that the workers have time off to go to the polls for the discharge of their civic duties. There has been objection to the introduction of this practice in this country.

Another suggestion whereby our election machinery might be improved lies in the extension of the permanent registration system. Instead of having the voters appear periodically to register as they do under the periodical registration plan, the voter appears once and gets on the eligible voters' list. Under the permanent registration plan the one registration is sufficient. If a voter dies, his name is stricken off. If he moves, he can send a letter requesting that his name be removed from the register in the old precinct and added to the list in the new precinct. Another feature of permanent registration is the requirement of the voter's signature. This is to prevent fraud.

Some cities continue, even under permanent registration, to count the vote in the local precinct. Others carry on the count at central headquarters. A chief advantage of this latter plan lies in the fact that fresh teams of tally clerks can be provided to expedite the process of vote counting. Judges and clerks who have been on duty all day long at the polls are fatigued at the closing hour. When the polls are closed there still remain many hours of detailed work to be done in tabulating the vote. Under such conditions mistakes can be expected. When the counting takes place at the central headquarters it is done under conditions which are more likely to discourage fraud. The latter would seem the better plan.

Requirements for Voting. The regulation of the suffrage is primarily a state function. Aside from a few regulations in the federal Constitution such as those concerning Negro and woman suffrage, the state is virtually supreme in this field. The modern conception of voting is that it is a privilege rather than a right.¹ It is something which has been acquired by the people only after long efforts on their part. The privilege of voting is extended under

¹ Kneier, *op. cit.*, p. 162.

state law to those persons who are thought capable of exercising it. It rests, therefore, upon the state to determine just what qualifications will obtain for voting within its jurisdiction.

Three of the most common voting requirements concern age, residence, and citizenship. In all states the voter must be twenty-one years of age. This is the age, recognized in English and American law, at which an individual becomes an adult person of full legal competency. Age requirements vary in the principal countries of the world. In Germany under the imperial government before the First World War, twenty-five years was the requirement. Under the Constitution of the Weimar Republic, the age was fixed at twenty years. Twenty is the voting age in Switzerland; in Soviet Russia it is eighteen.¹ All American states require citizenship as a prerequisite to voting. Citizens are of two general groups, namely, native born and naturalized. Residence requirements vary from three months in Maine to two years in Rhode Island and in five southern states. The most usual regulation calls for one year in the state, ninety days residence in the county, and thirty days in the ward or voting precinct.

In addition to the above requirements some twenty-six states, about half of which are southern, have literacy tests for voting, which means the ability to read or the ability to read and write. A property or taxpaying qualification is found as an alternative to the literacy test in some southern states, as in South Carolina, where a person must either be able to read and write or show that he owns and has paid taxes on property assessed at \$300.² Ten states, of which eight are in the South, have the requirement of a poll tax or head tax, the normal tax being \$2.00. To vote one must present a poll-tax receipt. The effect of such taxes is to reduce the number of "poor whites" and Negroes who vote. In the 1936 election, for example, only 16 per cent of the people of Mississippi voted, 14 per cent in South Carolina, and 20 per cent in Alabama and Georgia.

A noteworthy 4 to 3 decision (by the United States Supreme Court) in May 1941 sustained the right of the federal government to intervene in congressional primaries to protect the right of citizens to vote, thus reversing the Court's pre-

¹ *Ibid.*, pp. 165-166.

² P. H. Odegard and E. A. Helms, *American Politics*, Harper & Brothers, New York, 1938, p. 370.

vious decision that primary elections are not the concern of the federal government. . . . The decision apparently has wide implications for the protection of the rights of franchise in the election for federal officers.¹

Criminals, idiots, and insane persons are generally excluded from voting. In some states those who have been convicted of bribery, malfeasance, or other election crimes are barred. "In New York, a voter may be disqualified for betting on an election, in Idaho for practicing polygamy, and in four states for participating in a duel. In thirteen states paupers are not allowed to vote, and in Georgia and Mississippi delinquent taxpayers are excluded."² Some persons have seriously advocated excluding persons from voting who are on relief in time of depression, or who are receiving aid from government in some form or other. This would work a great injustice upon many of our people who in a time of great financial upheaval were forced to accept help from government rather than face starvation for themselves and their families. On the other hand bills have been introduced in Congress and in some states to abolish the poll tax and otherwise to insure the suffrage to all citizens.

Mechanics of Voting: *The Ballot.* We in America have been very guilty of asking the voter to do the impossible and then we have wondered why he did not do it. It is a fact that we have too many elections. One reason for this is the multiplicity of governments in the United States. Illinois leads the nation with over 15,100, some 12,115 of these being school districts.³ In metropolitan Chicago alone there are over 1600 and in Cook County over 400 local governments.⁴ This fact means more elections and more public officials to elect. In a given election there may be 300 or 400 names to be voted on, about 90 per cent of whom the average voter knows nothing. The ballot in New York was found to be as long as 14 feet. Under these circumstances it is extremely difficult for even a political scientist who has spent a lifetime in the study of government to cast an intelligent vote.

A Chicago newspaper in discussing the voter's burden in connection with the length of the ballot in the 1926 primary had this to say,

¹ American Civil Liberties Union, *Liberty's National Emergency*, New York, June, 1941, p. 55.

² Odegard and Helms, *op. cit.*, p. 370.

³ *Chicago Tribune*, Sept. 18, 1939. Figures based on study by Illinois Tax Commission.

⁴ Charles E. Merriam, S. D. Parratt, and A. Lepawsky, *The Government of the Metropolitan Region of Chicago*, University of Chicago Press, Chicago, 1933.

Voting on public expenditures and public policies Tuesday was equal to making a will, writing farewell messages to all one's friends, reading the Declaration of Independence and the Constitution, ordering the groceries, doing the spring housecleaning and obtaining a passport — all in the five minutes a voter was permitted to stay in the booth.¹

Suggested Improvements. What can be done to improve this situation? Fewer elections and longer terms of office would help. The consolidation of our numerous local governments would be a constructive step forward. The short ballot is another proposed remedy. Its principle is that the voters' choice should be limited to the policy-forming officials rather than to purely administrative offices. This point is so important that it deserves illustration. Why should the voters of the county vote to elect the county coroner, recorder of deeds, clerks of courts, and county surveyor? These offices, typical of many others, are administrative, and persons especially well trained for these types of work should be appointed by appropriate officials. It is generally agreed by competent students that administrators and experts should be appointed rather than elected. The people cannot judge as to the technical requirements involved. A local example of this bad practice which could be duplicated in other cities is in the election of chief bailiff of the Municipal Court of Chicago. This is one of the chief patronage offices in the city, its possession being highly prized by the party organization. An example in the State of Illinois is the office of superintendent of public instruction. It is on an elective basis, whereas, according to the principles of good administration, it should be on an appointive basis. By taking many of these offices off the ballot the burden to the voter could be reduced. He could then concentrate upon fewer policy-forming officials, such as legislators, aldermen, and executives such as the governor, the mayor, and the like, and discharge his responsibilities more intelligently.

The Indiana and Massachusetts Ballots. Another improvement could be made in the type of ballot used. The Australian or secret ballot, which, as indicated earlier, is designed to prevent the bribery and intimidation of the voter, was introduced over a half century ago. There are two types of Australian ballots used in this country, namely, what are known as the Massachusetts and the Indiana

¹ *Chicago Journal*, Apr. 15, 1926.

types. The former provides the arrangement of candidates' names under the respective offices rather than under the party circle. The latter provides the party column type of ballot where the offices and candidates are arranged in a column under the party circle. The Indiana ballot encourages straight ticket voting so much desired by political bosses and machines. The Massachusetts ballot makes straight voting difficult. Some thirteen states have the Massachusetts ballot, whereas twenty-six states use the Indiana ballot. It should be evident that from the standpoint of good government that the Massachusetts type is much to be preferred.

Some cities in the United States under the commission or city-manager forms of government have what is called the "non-partisan" ballot. In this case, the party signatures or designations are omitted from the ballot, the names of the candidates appearing under the respective offices.

Voting Machines. The use of voting machines has been suggested as a further aid in the reduction of vote frauds. They have been authorized in many states. In a few states their use is mandatory, as for example in New York, Indiana, and Montana. Among the larger cities using them are New York, Buffalo, Rochester, and Syracuse in New York; Hartford and New Haven in Connecticut; Philadelphia, Pittsburgh, Scranton, and Wilkes-Barre in Pennsylvania; Baltimore, Maryland; Indianapolis, Indiana; Grand Rapids, Michigan; Des Moines, Iowa; Seattle and Tacoma, Washington; and Los Angeles and San Francisco in California. In the 1936 presidential election more than one-fifth of all the votes cast were on voting machines. Some 8,500,000 voters used 25,000 machines in that election.

The advantages are many as claimed by the advocates of voting machines: the fraudulent vote is reduced; money is saved; it is more businesslike; it is more convenient; spoiled ballots are eliminated; costly recount cases are avoided. Another advantage lies in the fact that with voting machines the polls can be kept open until a later hour. In New York City, for example, the polls can be open until nine o'clock in the evening, giving the people added hours in the evening to perform their civic duty. On the other hand, in Chicago where machines are not used, election clerks frequently work to the wee hours of the morning in order to tabulate the vote. With the use of machines a quicker and more accurate

count can be had. Needless to say, many professional politicians oppose the use of voting machines.

The Problem of Vote Frauds. Before the advent of the secret Australian ballot system and other election reforms, elections frequently were bought openly with whiskey or coin. Violence and intimidation were practiced on a widespread scale. Ballot boxes vanished, poll officials were kidnapped, and party workers slain. Violence of this type is rare today. Hoodlumism in elections has waned.* Methods which formerly were primitive and coarse have now become more refined.

Woman suffrage, it is claimed, has had something to do with this change. Polling places were moved out from the less respectable masculine meeting places to cleaner surroundings. In spite of the improvement in the mechanics of voting to guard against fraud there are still many possible ways of fraudulent voting. One method is to vote under a fictitious name or in the name of another person. Repeat voting is still another method. Sometimes putting ballots into the ballot box before the opening of the polls will accomplish the same purpose. Altering or changing a ballot which has been voted is one of the many techniques of vote frauds.

Concealing, stealing, or destroying a ballot box, poll list, registration card, or ballot may be attempted. Another cheating device is presenting a false or forged application for a ballot. Sometimes the fraud takes the form of the handling of the ballots by a police officer or other persons who are not judges of election. The counting of ballots by unauthorized persons will serve the same purpose. Stuffing the ballot box by willfully or fraudulently putting a ballot in the ballot box when such ballot is not offered by a voter then and there present is another means. Intimidating, assaulting, or kidnaping voters constitute a serious angle of vote frauds in some instances.

Chain voting and short-penciling ballots are two of the most common types of practices involving vote frauds.

Chain voting was designed to make certain that a bought vote stayed bought. A ballot already marked is given to a regularly registered voter, with a promise that if he brings out a fresh one he will be paid, usually from fifty cents to two dollars. The holder draws a blank ballot, enters a booth, folds the blank ballot and pockets it. He hands the pre-marked ballot to the judge who slips it into the box.

... The short pencil is an antiquated tool, but still in vogue. A tiny bit of lead is waxed under a long finger nail. When the wearer, in counting, comes to a straight ballot, with a cross only in the circle of the opposing party, he marks in the adjoining column a small cross or two to indicate a split ticket. Wherever the short pencil marks it not only picks up a vote but destroys another.¹

In spite of some improvement, fraudulent voting practices persist, especially in our large American cities which are so frequently dominated by machine organizations. There is no one remedy which will solve the problem. Voting machines, permanent registration, progressive election laws, honest election officials, and an alert public can do much to control the evil.

The Problem of Nonvoting. In a sense the failure of many citizens to vote is the greatest single obstacle and one of the most discouraging elements in the picture. Some years ago Professors Merriam and Gosnell of the University of Chicago made a study of nonvoting in connection with a Chicago mayoralty election. They found that 44.3 per cent of the absentees abstained through indifference or inertia.² In the 1936 presidential election some 57 per cent of the total vote was cast. In a recent mayoralty election in Chicago approximately one-third of the eligible voters did not vote. Perhaps one reason for this indifference may be the fact that we have made the franchise appear too cheap in the eyes of the voter. We have looked upon it as a duty, as a painful chore to be performed rather than as a privilege. This has permitted those groups who have a predatory interest in elections, such as professional politicians, to exercise a controlling influence.

As a remedy for some of these difficulties some have suggested that we raise our requirements of voting. Perhaps the voter should take a course of training in practical politics before venturing further in the actual exercise of the franchise. A system of awards or privileges might be used as additional incentives. "The average election rarely brings out more than 50 per cent of the possible vote."³ Some European countries have used compulsory voting. Some form of it has been used in Belgium, Spain, Czechoslovakia, Denmark, Hungary, Mexico, New Zealand, Australia, and other

¹ W. C. I. Hallowell, "How to Steal Votes," *Chicago Herald American*, Apr. 17, 1940.

² C. E. Merriam and H. F. Gosnell, *Non-Voting Causes and Methods of Control*, University of Chicago Press, Chicago, 1925.

³ Chester C. Maxey, *The American Problem of Government*, F. S. Crofts & Co., New York, 1936, p. 335.

countries. Fines are provided for the nonuse of the ballot or, in repeated cases, the forfeiture of the franchise. It does result in a much larger response at the polls, as for example, 94 per cent in Belgium. It is very doubtful whether such a system would work in the United States. True, to avoid penalties, many more people would appear at the polls. However, there would be nothing in the plan which would guarantee an honest or an intelligent vote or prevent people from casting blank ballots. Further education of the voter and the simplification of the mechanics of voting, however, are definitely needed.

The Problem of Unintelligent Voting. It is one problem to get the voter to the polls. It is still another problem to get him to vote intelligently. Too many voters are guided by prejudices, tradition, or emotions rather than by reason, factual information, and intelligence. Some people are born into a certain party and never escape it. The nationality of a candidate may be of more significance to them than his intelligence or qualifications for the office. A candidate heading the list will sometimes get more votes by virtue of this fact than another more meritorious candidate half way down the list. Friends, employees, newspapers, pressure groups, and "ward heelers," all try to influence our vote. The long ballot, the party circle, partisan primaries, and political parties encourage the voter to take the easiest way out, to vote the straight ticket, that is, to vote for all the candidates of a given party rather than to split the ticket or vote for the individual candidates irrespective of party. Political campaigns too frequently are devoid of real issues, making their appeal to emotion rather than reason, through propaganda, ballyhoo, and showmanship.

One difficulty lies in the fact that the average citizen today does not have access to reliable, nonbiased, understandable information on the controversial issues of the day. He is confronted with a mass of propaganda and conflicting claims made by the press, the radio, the political party, and pressure groups. Which way is he to turn? There are numerous civic groups working on the problem, but the difficulty is that the people who need most to be reached do not come in contact with these organizations. The public school, with its citizenship training courses, offers one opportunity. The radio with its discussion group is doing good work. Adult education and citizenship classes in evening schools and community centers con-

tribute their part. Perhaps we need a nation-wide system of public forums where citizens and their neighbors can congregate together in a personal, neighborly way to discuss freely the current problems of the day. The wider use of the school plant may be a possible aid. We have many facilities and agencies available if we would coordinate them more effectively for the purpose of training for intelligent American citizenship. In our public schools we need to study not only the theory and ideals of American democracy but also the practical operation of governmental processes in everyday life.

DIRECT LEGISLATION

The Development of Direct Legislation. Certain weaknesses at times manifest themselves in representative government. Sometimes our representatives do not represent us properly. At times they may refuse to pass a bill which is apparently wanted by the majority of the people. In other instances, some undesirable legislation may be passed. Pressure groups by their shrewd tactics may wield an influence out of proportion to the numbers they represent. Small minority groups may obstruct the will of the majority on essential legislation.

In recent years legislative bodies in general have tended to lose prestige. In the early history of our country the reverse was true; then there was a general distrust of the executive power. Legislative groups are likely to be too large in some cases for effective work. Legislative sessions are generally too short for efficient and thorough work. The personnel is constantly changing, as a position in the state legislature may be merely a stepping-stone to something higher. There is the constant influence of numerous pressure groups tending to complicate the situation. The complexity of the task increases with an ever-mounting volume of proposed laws in each session. It would not be entirely fair to blame the legislators for this development. The people may be indifferent to the choice of able, conscientious representatives. Some causes may lie more deeply in the changing character of the American political scene.

All things considered, the people probably get as good legislators as they deserve and the general standards will compare favorably with the type of electorate which selects them. However, in order to remedy some of the weaknesses of the representative system the devices of the initiative, referendum, and the recall have been pro-

posed. Collectively these are commonly referred to as "direct legislation."

The Referendum. In its simplest form, this is merely a provision for a popular vote on a measure. The referendum is of the *compulsory* or *optional* type. An example of the former would be the case of certain propositions which under the law must be passed upon by the people before they go into effect. This is commonly true of state constitutional amendments and measures which seek to increase the bonded indebtedness beyond the statutory limit. The compulsory referendum has been in common use for many years.

It is the optional referendum which is usually referred to when the term "referendum" is used today. The optional referendum is a method by which a prescribed portion of the voters may file a petition asking that a bill which has passed the legislature be suspended until the citizens have a chance to approve or reject it at the polls. This type is sometimes referred to as the "protest" referendum. A few years ago the City Council of Chicago voted an ordinance providing for daylight-saving time all the year around, which aroused such a protest that petitions were circulated requesting a popular vote on the measure. The voters, being given a chance to choose from among several alternatives as to the kind of time they wanted, voted to modify the Council's action.

The Initiative. Under the initiative, voters who desire a new law draft a proposal and attach a petition to it. This petition must be signed by a prescribed number of voters, generally from 5 to 10 per cent of the total vote cast in the last election. There are two general types of initiative, *direct* and *indirect*. If it is direct, provision is made at once for placing the question on the ballot at the next general election, or in some cases at a special election. If the proposition receives the necessary majority at the election, it becomes a law without the intervention of the legislature. If it is indirect, the bill is submitted to the legislature for its approval. If the legislature accepts the bill, no further action is necessary. If the legislature rejects it or seriously amends it, the revised measure is submitted to a popular vote (unless its sponsors decide to withdraw it). In some states if the measure is then submitted some additional signers must be secured. The latter obtains in the event of the unfavorable action of the legislature or in the event of any substantial amendment of the bill.

The first state in the country to adopt the initiative and the general referendum was South Dakota in 1898. By the end of the First World War twenty states had adopted both instruments of popular control. These states are Arizona, Arkansas, California, Colorado, Idaho, Maine, Massachusetts, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Utah, and Washington. Two states, namely, Maryland and New Mexico, have the referendum only.¹ In addition to this, the initiative and referendum are found in many American cities, especially those which have either the commission or the city-manager type of municipal government.

Illinois has a type of initiative known as the "Public Policy Law." Under this law, 25 per cent of the voters of a subdivision of the state, or 10 per cent of the voters of the entire state, may file a petition asking that a specified question of public policy be submitted to the electorate. Not more than three such measures can be submitted at a given time. However, in this case, the popular vote is purely advisory and is not compulsory upon the legislature. It is generally agreed that this law is ineffective.

A number of state constitutions contain limitations on the use of the initiative. Sometimes small minority groups may persistently resubmit measures despite the fact that they may have been defeated before or are likely to be voted down in the next attempt. To discourage this and to prevent the overburdening of the electorate, some states forbid the resubmission of a proposition within a certain time after it has been defeated. An example of this is the state of Nebraska, which fixes the interval at three years.

The Recall. In general this is a device whereby a popular petition may invoke a special election at which an official may be removed from office. It represents an opportunity for the voters to get rid of an elective official who has proved unsatisfactory without waiting for his term of office to expire. The use of impeachment proceedings for the most part is unwieldy and clumsy. The recall may be used instead. It provides an additional check for the voters on their elective officials.

In recall proceedings a petition must first be framed citing the charges against the unsatisfactory official. It is usually required that this petition be signed by a certain percentage of the total

¹ Lien and Fainsod, *op. cit.*, p. 410.

number of voters at the last election for that particular office. The petition is filed with the proper officer who proceeds to verify it. The official in question is then given an opportunity to resign within a specified period after the filing of the petition. If he refuses, a date is set for the special election, usually within a period of from twenty to ninety days.

There are various ways of handling the recall election. Under one plan the incumbent becomes a candidate to succeed himself, competing with other nominees much as in the case of the original election. The matter of the recall is thus brought to bear in a rather indirect manner. Under the second plan, which is the more usual arrangement, the voters first express themselves directly on the recall issue. On the same ballot they are asked to vote for a successor. First the votes are counted on the recall issue. If the sentiment is favorable to recall, the candidate who receives the largest number of votes is elected to fill out the term. A third plan concerns itself exclusively with the recall feature. If recall is approved, a special election, at which a successor will be chosen, is provided at a later date.

The recall was first introduced in Los Angeles in 1903. Following this action numerous cities throughout the country adopted it. Some fifteen states now provide for the use of the recall in all cities, and twenty-three others provide for its use in certain cities, generally those having the commission or manager types of government. Conservatively estimated, over one thousand cities have the use of the recall.¹ Oregon was the first state to introduce a state-wide recall. Other states which have it are: Arizona, California, Colorado, Idaho, Kansas, Louisiana, Michigan, Nevada, North Dakota, Washington, and Wisconsin.²

The recall provision affecting judges has been widely criticized. Arizona first proposed this in 1911. Some eight states have facilities for the popular recall of judges. The late President Theodore Roosevelt went a step further in advocating the recall of judicial decisions by popular vote. The Progressive Party platform in 1912 sponsored this issue. At the present time this type of recall is generally discredited.

Evaluation of Direct Legislation. There are many arguments advanced in defense of direct legislation. It is believed that this

¹ Kneier, *op. cit.*, p. 283.

² Lien and Fainsod, *op. cit.*, p. 418.

form of legislation makes government more democratic because the power of the ordinary voter is increased, it fosters a respect for law, it acts as a check upon the legislature, and it has a distinct educational value by putting issues directly before the voter for decision. It has been advocated on the ground that the cure for the ills of democracy lies in still more democracy.

On the other hand, there are some valid arguments against it. It may open the way to minority government. The voter already overburdened is given still greater responsibilities. The claim is made that the system breaks down the principle of representative government. As a lawmaking device, it is unsatisfactory because the people are not in as good a position as their representatives to legislate intelligently. Lastly, it is argued that even where the voters are given the opportunity to use the devices, little interest is manifested.

The success of direct legislation will depend in large measure upon the intelligent use which the voter makes of it. The introduction of any mechanical device in government, in itself, will not ensure democracy. There is no way to eliminate the human factor in government. The initiative and referendum, while they offer no panacea for the ills of democracy, represent a potential weapon which may have a wholesome effect upon modern legislative bodies. The recall has been used so sparingly in this country that a final evaluation is difficult to make.

PROBLEMS OF DEMOCRACY IN THE UNITED STATES TODAY

Problems of Representation. Despite the substantial progress we have made in the expansion of American democracy, much yet remains to be done. Through the use of poll taxes and educational tests the Negroes of the southern states are practically disfranchised. "As everyone knows the Fifteenth Amendment is virtually a dead letter south of Mason and Dixon's Line."¹ We still have the problem of fraudulent voting, bossism, and machine government, especially in our large American cities. There are the problems of nonvoting and unintelligent voting. Large industrial centers are discriminated against in the matter of legislative representation.

¹ Austin F. MacDonald, *American City Government and Administration*, The Thomas Y. Crowell Company, New York, 1941, p. 253.

This discrimination either takes the form of arbitrary restrictions definitely limiting the representation of urban districts or of the failure of legislative reapportionment. "Sixty-one and six-tenths per cent of the members of the national House of Representatives and 75 per cent of the United States Senators come from predominately rural districts. In other words, this percentage of members of Congress live in places under 10,000 population or on farms."¹

Because of the failure to reapportion, Illinois congressional districts range in size from 103,000 to 913,000. The normal district should represent 303,000 persons.² In a like manner, the Illinois state senatorial districts show a similar inequality. These districts vary from 42,925 to 563,231 and each has the same number of votes in the legislature.³ Cook County (Illinois), in which Chicago is located, has approximately 52 per cent of the total state population but has only 37 per cent of the representation. This situation is due mainly to the failure of the legislature to reapportion the districts since 1901.

Gerrymander. Another undemocratic condition has to do with the political device called "gerrymander." The term is used to designate an unfair division of the electoral districts in a state, made in the interest of one of the political parties. In the event that the districts are to be reapportioned, the party in power will run the district lines in such a manner as to mass the opposition voters in a few districts, thus enabling the majority group to control as many of the individual districts as possible. The minority party will be able to carry several districts by comparatively large votes, but the majority party, by spreading its followers around in strategic places, will gain control of the large number of districts and thus will dominate the legislative house.

The term was coined in 1812, when Elbridge Gerry was governor of Massachusetts. At this time the Federalists and Democratic-Republicans were nearly evenly balanced in numerical strength, but the latter party took advantage of a temporary majority to divide the state in such a manner that those sections which gave a large number of Federalist votes might be brought into one district.

The form of one of the districts was somewhat like that of a monstrous animal, and when someone suggested that it looked like

¹ *The New York Times*, Dec. 19, 1937.

² *Daily Times*, Chicago, June 20, 1941.

³ *Chicago Tribune*, Mar. 16, 1939.

a salamander the name "gerrymander" was given to it instead.¹ The use of this political art has resulted in the creation of legislative districts of fantastic shapes and sizes, such as the "salamander," the "saddlebag," the "shoestring," the "beltline," and the "dumbbell." The saddlebag type of district found in Illinois consisted of a corridor of counties connecting two groups on opposite sides of the state. This condition existed in spite of the fact that the Federal Apportionment Act of 1910 required all districts to be "contiguous and compact." In the next reapportionment act of 1929 no mention was made of this restriction so the Supreme Court ruled that the requirement had been repealed.²

The Hare System. A plan of proportional representation known as the "Hare system" is found on a limited basis in the United States. Under this arrangement candidates are nominated by petition, no primary being required. The number of signers of a petition required to nominate a candidate varies. The purpose is to make the requirement small enough to secure enough freedom but large enough to discourage candidates who have no chance of election.

As an example, let us take the election of the nine councilmen in Cincinnati. The voter is asked to designate his first choice by putting a 1 before the name of his first choice; a 2 for the second choice; a 3 for the third choice, and so on. The voter may mark as many choices as he pleases. After the polls have been closed, the ballots are separated in each precinct according to first choices. All the ballots marked as first choice for each of the candidates are put together, and are then sent to a central place for counting.

The next step is to determine the "quota" or the number of votes necessary to elect a candidate. The quota is determined by dividing the number of offices to be filled, plus one, into the total number of valid ballots cast, and taking the next higher whole number. In the election of the nine councilmen in Cincinnati, let us say there were 100,000 votes cast. To arrive at the quota, 100,000 would be divided by 9 plus 1, or 10, which would be 10,000. The next higher whole number is 10,001, which is the quota. Any candidate receiving as many as 10,001 first-choice votes is declared elected. Any surplus votes of the successful candidates which they do not need

¹ C. A. Beard, *American Government and Politics*, The Macmillan Company, New York, 1939, p. 76.

² Phillips, *op. cit.*, p. 211.

are transferred to the other candidates. Thus A who had 10,101 first choice votes had a surplus of 100 votes which he did not need. These 100 votes are now transferred to the second-choice candidates. In this way B, who did not have the quota in first choices, may now be elected by adding the second choices to the first which makes the necessary quota. This principle of the single transferable vote would be used until the nine candidates are elected. During this process, the lowest candidates, having no opportunity to win, are dropped out, beginning with the very lowest, then the next lowest, distributing their piles of votes to the more likely candidates, always according to the voter's choices marked on the ballot.

The Hare system gets its name from Thomas Hare who in 1857 published a pamphlet, "The Machinery of Representation," which explained the plan. The device is widely used throughout the British Empire in the Irish Free State, in parts of Australia, New Zealand, and Canada. In the United States its use is largely confined to some of the cities. The first to adopt it was Ashtabula, Ohio, in 1915. Other cities which use it are Kalamazoo, Sacramento, West Hartford, Wheeling, Yonkers (New York), New York City, Cleveland, Cincinnati, and Hamilton, Ohio. Cleveland, Ashtabula, and West Hartford have since abandoned the system.¹

The chief arguments in favor of the Hare system are (1) it prevents any one group from dominating the council and excluding other representative groups; (2) every important political group in the community is represented in proportion to its voting strength; (3) it does away with the need for primary elections.

On the other hand, the main arguments against it are (1) it has a tendency to destroy party responsibility; (2) the system is too complicated for the average voter; (3) too much time is required to count the votes. On the whole, the Hare system of proportional representation has not made rapid progress in this country.²

Occupational Representation. In order to overcome the disadvantages in a system of representation based upon territorial units it has been suggested that we have a plan of occupational representation. This would give representation in our legislative bodies to the various occupational groups such as farmers, laborers,

¹ MacDonald, *op. cit.*, Chap. 18, pp. 260-269.

² For a detailed discussion see George H. Hallett, *Proportional Representation, the Key to Democracy*, rev. ed., Washington, D. C., 1940.

professional people, businessmen, and others, in proportion to the percentage of the total population that their numbers constituted. This has sometimes been called the "functional" plan. It is a known fact that lawyers predominate in public office, whereas other groups such as labor, clerical workers, small businessmen and others are underrepresented. The assumption of the proposal is that occupation determines a person's political interests more significantly than does the area in which he lives. There are a number of practical difficulties involved in this type of representation. On the whole, occupational representation has found little favor in this country.

Unsolved Problems of Democracy. The attainment of real democracy is still a problem not fully solved in the United States or the world at large. Whatever can be done to make democracy a more vital force, both within and without the country, will certainly be desirable. Too often we have assumed that because we have the form we also of necessity have the spirit and substance of democracy in our everyday relations.

The great gift of America to the world lies in her democratic institutions. They are based upon peace, orderly processes of government, individual liberty and opportunity, and the recognition of the worth of the individual personality. Eternal vigilance is still the price of liberty and democracy in the world today. At no other period of world history is this principle better illustrated than today when these values are challenged by dictatorship.

TERMS TO BE UNDERSTOOD

democracy	permanent registration
Federal government	short ballot
presidential government	Indiana ballot
unitary government	Massachusetts ballot
parliamentary government	nonpartisan ballot
totalitarian government	chain voting
Bill of Rights	short-penciling ballots
Australian ballot	referendum
representative democracy	initiative
caucus	recall
the delegate convention system	poll tax
direct primary	gerrymander
closed primary	Hare system
open primary	occupational representation

QUESTIONS FOR DISCUSSION

1. Compare the American presidential system of government with the English parliamentary democracy in as many respects as you can.
2. Trace the evolution of the nominating process.
3. Do you favor the reduction of the voting age, say from 21 to 20 or less? Give the main arguments both for and against this proposal.
4. Could our political problems be solved by "putting good men in office"?
5. Is electing fewer government officials inconsistent with democracy? How may it be conducive to representative government?
6. In your state, does the law make provision for the following: (a) open primary? (b) Massachusetts ballot? (c) voting machines? (d) direct representation?
7. Why do so many eligible voters fail to vote? Do you believe that a system of compulsory voting similar to that used in European countries should be adopted here?
8. What can be done to solve the problem of "blind voting"?
9. Has direct legislation revolutionized the character of American democracy? Give your reasons.
10. What do you think of the Hare system? Do you believe that the future will witness its greater success in this country?

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FEDERAL, STATE, AND LOCAL INTERRELATIONSHIPS

THE NATURE OF FEDERALISM

Federalism Defined. Governmental systems may be classified as *federal* and *unitary* on the basis of the number of governments among which powers and functions are distributed. In a federal system they are distributed between two governments, the central government and the major political divisions. In a unitary system there is no division of final powers; all of them are vested in a single central government. In a federal government such as we have in the United States there is a constitution which defines for the two governments their particular spheres of authority, and this allocation of powers cannot be changed without the consent of both. In the United States, powers can be added or subtracted from the state or national government only by amending the Constitution. A change, then, involves the agreement of both levels of government. In a unitary system the central government possesses all the supreme powers of government. All subdivisions, such as provinces, states, counties, and cities, are dependent upon this one government. They may be created and altered at will by the central governmental authority.

The unitary system has been the result generally of conquest and expansion without regard for the wishes of the people. The areas subjugated lose their identity and become administrative areas within the central government. Most governments of the world are unitary. Federal systems have been established by independent states which, because of conditions, have found it to their mutual interest to band together, although they have been unwilling to give up completely their own independence. They have, therefore, established a federal union, as in the United States, in which certain powers have been granted to the national government and all others have been retained by the member states; or

as in Canada, where certain powers are granted to the provinces and the remaining powers are vested in the national government.

Federalism in the United States was a result of practical consideration. Only a federal government could have been established when the government of the United States came into being, since the thirteen states, distrustful and jealous of one another, would not have consented to their consolidation into one single government like that of England or France. It was the wise Benjamin Franklin who in 1787, happy in the achievements of the Convention, wrote to a friend in France:¹

I send you enclosed the proposed new Federal Constitution for the States. . . . If it succeeds, I do not see why you might not in Europe carry the Project . . . into execution by forming a Federal Union and One Grand Republick of all its different States and Kingdoms by means of a like Convention; for we had many Interests to reconcile.

There are many who echo these beliefs today and look to a United States of Europe as a solution.

Federal governments exist chiefly because of peculiar historical backgrounds, but they have made possible great and important unions. Some authorities regard the federal system as a transitional form, and point out that federalism will eventually change to a unitary system of government. There is indeed a distinct trend in the world today toward greater centralization of governmental powers and functions.

Advantages and Disadvantages. Federalism is a blessing in the early stages of a union of states with varied interests. It makes possible a system by which states may unite into a close association without the surrender of a separate existence. It brings about some measure of union and solidarity, and yet permits a great degree of autonomy. Uniformity of legislation is possible, and yet there may be diversity in matters where conditions make it desirable. Federalism makes possible political experiments with the states serving as laboratories. The unicameral legislature in Nebraska, for instance, will give other states an opportunity to observe the advantages and disadvantages of this experiment. The modest unemployment insurance law of Wisconsin was the forerunner of the Social Security Act. Federalism precludes remote control;

¹ Max Farrand, *Records of the Federal Convention of 1787*, New Haven, Connecticut, 1911, Vol. III, p. 131. Reprinted by permission of Yale University Press.

laws and regulations do not all emanate from the seat of the central government, in our case Washington. Each state controls and regulates itself to a very great degree, according to its own needs and desires.

Federalism has its defects. By distributing powers, some to the national government and some to the states, it sets up a dual system of government, whose powers the courts must continually interpret. Congress has the right to regulate interstate commerce. But what is interstate commerce? When does the transfer of coal, for example, assume an interstate character? Is it interstate commerce only when it is in transit, moving from one state to another, or when it is being loaded into the freight cars for interstate commerce, or when it is being taken out of the mines, destined for interstate commerce? This question the Supreme Court eventually determines. In a unitary government no such difficulties arise, since there can be no question of disputed powers.

Federalism means dualism or pluralism. The problems of federal-state relations grow increasingly difficult. There is lack of uniformity in legislation and administration. The diversity of laws is so great as to make enforcement of some of them impossible. Business is hampered because it is governed by the laws of many jurisdictions — in our country of forty-eight states. A canning factory, for example, must maintain a legal department to assure compliance with the laws of each state in which its products are to be sold even though it has already complied with the national pure food laws. Criminals, on the other hand, find it easy to escape across state borders because of the limited jurisdiction of state officials. It is conceded that national legislation passed in the last two decades to deal with crime has made the apprehension of criminals more effective. Present-day relief problems are made more difficult of administration; they impose hardships upon the individual because of residence requirements and lack of uniformity of laws. When in 1936, the Okies (from Oklahoma) and other Dust Bowlers began to flock to California, some of the residents of the Golden State did their utmost to discourage their entry and even to compel the visitors already settled there to return home. The Western Governors' Conference urged the Federal government to provide a relief program. Children in the United States do not possess equal educational opportunities because some of

the states are unable or unwilling to provide adequate funds for education. Even election laws differ from state to state.

Phenomenal changes in methods of production, transportation, and communication have enlarged many a state or local problem to one requiring national consideration. State boundaries hamper the possible solution of many problems. It has been suggested that state boundaries be revised and even replaced by regional areas of administration. There is little likelihood, however, of important change in this direction in the near future. The distribution of powers agreed upon in the Constitutional Convention of 1787 makes it difficult to pass laws which can operate uniformly throughout the country in many matters affecting the people in every state. This distribution has made it possible to hinder the solution of the most urgent needs of contemporary society. The mechanism of federalism can impede effective government action designed for the welfare of its citizens. It has been used to defeat the passage of laws necessary to meet the serious problems of present-day society. Some students of the question believe that the federal form is unsuitable to the state of economic and social development that America has reached, and that only a centralized system can effectively confront the problems of today. They say the Federal government does not possess adequate authority in the major fields of social regulation to cope with the issues it is expected to solve.

DISTRIBUTION OF POWERS

In the Constitutional Convention at Philadelphia one of the most important problems was that of distribution of powers. The issue was not whether there was to be a division of powers, since all were agreed as to that, but which powers were to be allocated to the national government and which reserved to the states. The states were loath to give up too much power and yet realized that a union must be endowed with certain authority if it were to remain stable.

Federal Powers. In the final distribution of powers in the Constitution, some were granted exclusively to the national government and others were reserved to the states, while some were given to both national and state governments. Some prohibitions were placed upon the national government, some upon the states,

and some upon both. The powers of the states in our Federal Union are original, inherent, and residual.¹ The national government has only delegated powers.² These are enumerated in the Constitution. In Article I of the Constitution, Sections 8, 9, 10 enumerate most of the powers and prohibitions. Some of the enumerated powers of the Federal government are as follows:

1. Lay and collect taxes to pay the debts; provide for the common defense and general welfare of the United States.
2. Borrow money.
3. Regulate interstate and foreign commerce.
4. Establish uniform rules of naturalization and bankruptcies.
5. Coin money; regulate its value and that of foreign coin.
6. Fix the standard of weights and measures.
7. Establish post offices and post roads.
8. Grant patents and copyrights.
9. Declare war.
10. Maintain armies, a navy. Further, Congress shall make all laws which shall be necessary and proper for carrying into execution the enumerated powers.

Lest there be any uncertainty, the Tenth Amendment states:

The powers not delegated to the United States by the Constitution nor prohibited by it to the States are reserved to the States respectively or to the people.

In a unitary government the national government is omnipotent, but this does not mean dictatorship. In a federal system no one of the governments has unlimited powers.

State Powers. Those powers not enumerated in the Constitution belong to the states. Naturally these residual powers cannot be set forth in detail. Many relate to the more personal relationships, such as those between husband and wife, for example, laws concerning marriage and divorce, parent and child, employer and employee; others relate to property and business, namely, contracts, deeds, negotiable instruments, wills, corporations, and partnerships.

Shared Powers. Powers common to national and state governments are those essential to the proper functioning of every gov-

¹ Original and inherent powers are those which the state possessed before it entered the Union. Residual is explained by the Tenth Amendment.

² The national government, since it had not previously existed, possesses no inherent powers but only those delegated, that is, those enumerated and defined in the Constitution which created the Union.

ernment, namely, the levying of taxes, the borrowing of money, and the establishing of courts. These are necessary to the maintenance of any government.

Prohibition of Powers, Federal. History is replete with examples of men condemned to death without a trial. During the political struggles of the seventeenth century in England, persons were attainted of treason and sent to the scaffold by an act of Parliament with no judicial trial. Their estates were confiscated and even their descendants were deprived of many rights and privileges. The framers of the Constitution were determined that aside from removal from office by impeachment, no punishment ought to be inflicted except by a court of proper jurisdiction. Powers forbidden in the Constitution to the national government, the state governments, or both, were therefore based on historic experiences of man's cruelty to man: habeas corpus,¹ ex post facto laws,² bills of attainder.³ Other prohibitions were such as sectional interests demanded, namely, no tax on exports, no preference to any port, federal taxes uniform throughout the United States.

Prohibition of Powers, States. Certain additional prohibitions were placed on the states in order that the national government could function as a sovereign nation, namely, that no state shall enter into any treaty or alliance, or coin money. After the Civil War, three prohibitions were placed upon the states in the Fourteenth Amendment with far-reaching results:

No state shall make or enforce any laws which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

By the interpretation of these three limitations upon the states, the Supreme Court of the United States has made important decisions concerning the rights of the individual and the economic and social life of the country as a whole.

Implied Powers. The important doctrine of implied powers is based upon the so-called elastic clause of the Constitution which

¹ A writ by which any person detained against his will may be brought before a judge so that it may be determined whether the person is being held lawfully or not.

² Declaring criminal an act done before the passing of the law, and punishing for such an act.

³ Declaring a man guilty by a legislative act, with no judicial trial.

reads, "Congress shall have the power to make all laws which shall be necessary and proper for carrying into execution the enumerated powers." This idea of implied powers is firmly imbedded in American constitutional law and has been applied continually in the course of our national existence. Chief Justice Marshall enunciated this doctrine in the case of *McCulloch v. Maryland* when he stated:

This government is acknowledged by all to be one of enumerated powers. The principle that it can exercise only the power granted it, is universally admitted. The powers of the government are limited . . . but we think the sound construction of the Constitution must allow to the national legislature that discretion with respect to the means. . . . Let the end be legitimate . . . and all means which are appropriate, which are plainly adopted to that end, which are not prohibited but consistent with the letter and spirit of the Constitution, are constitutional.¹

This decision still stands as basic to the interpretation of the provisions of the Constitution.

Trends in Governmental Powers. The unprecedented growth of cities, changes in the methods of production, transportation, and communication have brought with them increased governmental services. A growing nation in an age of rapid technological and social change has found it necessary to increase the quantity and specificity of regulative devices far beyond what could have been envisaged in 1789.

Federal Provisions. The following clauses, in particular, in the Constitution have added to the powers of the national government, namely (1) the elastic clause, (2) the clauses giving Congress the right to regulate foreign and interstate commerce, (3) to lay and collect taxes to pay the debts and provide for the common defense and general welfare, (4) the provisions in the Fourteenth Amendment prescribing the limitations upon the states.

Judicial Interpretation of Powers. The national government is clearly one of delegated and enumerated powers. National legislation, however, must be based not only upon the provisions in the Constitution, but also upon the judicial interpretation of these powers. It is the Supreme Court composed of nine men with certain attitudes towards social and economic problems that decides

¹4 Wheaton (U. S.) 316. See also Mathew and Berdahl, *Documents and Readings in American Government*, rev. ed., The Macmillan Company, New York, 1940.

whether the "means" are appropriate, not prohibited but consistent with the letter and spirit of the Constitution. It is the Supreme Court which has the last word since under its power of judicial review it determines which government possesses the power. Except through reversal by the Supreme Court itself, only a Constitutional amendment can change this decision.

The Supreme Court in holding a law constitutional may open the way to greater security for the individual, more regulation of business, and greater expenditures on the part of the national government, as illustrated by the Social Security Act, the National Labor Relations Act, and many grants-in-aid. To some the decision of the location of power as between the states and nation means a better world with more of the good life for more people. Others regard it as regimentation and interference with private initiative.

In the beginning, the New Deal program was hampered by the interpretations of the Supreme Court. Laws affecting business and agriculture were declared invalid. Since the appointment of new judges to fill the vacancies on the Supreme Court, the opinions of the minority have now, to a considerable measure, become the decisions of the majority. The Supreme Court acting as arbiter of the spheres of national and state governments is vesting in the national government the power and regulation of economic activities which the states were unable to administer effectively. Laws passed by one state which are not pleasing to business can sometimes be avoided by moving to another state, but national legislation cannot so easily be circumvented. A Fair Labor Standards Act, a Security Exchange Act, or any other national legislation is omnipresent and there is no escape. Lands beyond our boundaries hold out little hope of less regulation.

The question, for instance, of whether commerce is interstate or intrastate is of tremendous importance. In the *Schechter Poultry Case*, although 95 per cent of all the fowls sold within the Manhattan district came from outside the state of New York, the Supreme Court held that state business only indirectly connected with interstate commerce was solely a state affair. The court stated,

The distinction between direct and indirect effects of intrastate transactions upon interstate commerce must be recognized as a fundamental one, essential to

the maintenance of our Constitutional system. Otherwise . . . there would be virtually no limit to federal power.¹

On the other hand, in *National Labor Relations Board v. Jones & Laughlin Steel Corporation*, manufacturing was held to be of interstate character. The National Labor Relations Act was upheld because it attempted to protect the organizing of labor and promoted the flow of interstate or foreign commerce. The Court said,

When industries organize themselves on a national scale, making their relations to interstate commerce the dominant factor in their activities, how can it be maintained that their industrial labor relations constitute a forbidden field into which Congress may not enter when it is necessary to protect interstate commerce from the paralyzing consequences of industrial war?²

Federalism has served as a check upon statutes designed to extend social legislation. Judicial interpretation can be effective in making our Constitution sufficiently flexible to meet the needs of a dynamic society.

INTERGOVERNMENTAL RELATIONSHIPS

Federal-State Relationships. The question of the relation of the states to the Federal government has been exceedingly important since the establishment of our government, but the nature of the question has changed with the political and economic development of the country. Though the machinery of federalism has tended to separate the two levels of government, nevertheless the diverse character and needs of different parts of the country tend to level off the sharp divisions. The problems arising out of a modern interdependent society, particularly in an area as vast as the United States, do not permit the setting up of rigid barriers between federal and state powers. The exercise of the power of judicial review by the Supreme Court has shifted the boundaries between the two governmental jurisdictions, sometimes in one direction and sometimes in another, but recently more toward greater centralization in the Federal government. Moreover, the complexity of our society has resulted in an ever increasing demand for government services, thereby enlarging the field of activity of both state and nation. Cooperation between the Federal government and the states is steadily increasing and its range is as varied

¹ *Schechter v. United States*, 295 U. S. 495.

² *National Labor Relations Board v. Jones & Laughlin Steel Corporation*, 301 U. S. 1.

as the entire field of governmental activities. It has made possible certain services to all sections of the country, even those states that could not have afforded such services independently. Thus a greater equalization of educational opportunities of health and welfare services has been brought about through federal aid.

Informal Relationships: Conferences. Informal relationships between Federal and state governments are carried on along many fronts. One of the most effective is that of conferences between federal and state officials by means of which problems of common concern are discussed and programs of work planned. There is the Annual Conference of State Governors, the Council of State Governments, the American Association of State Highway Officials, Conference of State and Territorial Health Officers, Association of State Foresters, and many others. Another type of organization, and one which includes the personnel in the fields of work, is that of the American Public Welfare Association, the American Public Health Association, and the National Organization for Public Health.Nursing. For instance, the Surgeon General of the United States, before drawing up rules and regulations for the various sections of the Social Security Act, conferred with the Conference of State and Territorial Health Officers. The Commissioner of Education from time to time calls conferences of state superintendents of instruction and city school administrators. Federal health authorities have been meeting with state and local officials for many years. As a result of these conferences, better health standards have been established, and the results of valuable experiments and research work have accrued to the benefit of the entire country. These conferences serve as clearinghouses on many subjects.

Exchange of Services. The Federal government has developed many services to a high degree; the Federal Loan Agency, the Federal Security Agency, and the Federal Works Agency are performing many services to meet state and local needs. Nearly four million people were employed by the Works Projects Administration on projects desired by the local authorities. The system of old-age benefits in the Social Security Act provides for insurance for persons who have reached a fixed age. The HOLC granted more than two billions for loans to protect unfortunate homeowners unable otherwise to keep their homes. State organizations and personnel frequently assist in carrying out federal laws.

Planning. National and state planning agencies correlate state and federal programs and give promise of a wiser use of land, forests, and other natural resources. Such plans may include specifications for highway projects, regulations for forest-fire prevention, or research work in public health. The Wagner-Peyser Act provides that any state desiring to receive grants for a state employment service must submit plans for carrying out the provisions of the law. The Social Security Act grants funds for services for dependent and neglected children. The Children's Bureau has established procedures for annual plans of work and budgets. The Bureau of Unemployment Compensation of the Social Security Board requires detailed budgets to be set up for purposes of administration. Under the Smith-Hughes Act, the state boards of vocational education must submit plans showing the courses of study, method of instruction, qualification of teachers. Over the conference table, through the planning agencies, the extension of advisory facilities, and an exchange of many services of bureaus of every department, the state and nation are brought into an even closer relationship.

Formal Relationships. There are also more formal contacts between national and state governments created by definite agreements. Clark, in *The Rise of a New Federalism*¹ points out that these agreements are exceedingly numerous and deal with a great variety of subjects involving every department. For instance, the United States Bureau of Labor Statistics has an agreement with state bureaus of statistics by which each state transmits data collected from industrial concerns located within the state. The Women's Bureau aids the states in making surveys of hours, wages, and working conditions of women. Under the Transportation Act of 1920 the Interstate Commerce Commission cooperates with state commerce commissions. There are agreements as to the exchange of personnel. States which make contracts with the TVA for cooperative public-health work in the valley must agree to employ persons mutually approved. There are formal agreements for loans of federal funds to the states. The flood-control program of the Federal government is dependent upon the cooperation of the states.

¹ J. P. Clark, *The Rise of a New Federalism*, Columbia University Press, New York, 1938, Chap. 3.

Grants-in-Aid. An increasingly important form of federal-state cooperation is grants-in-aid. Congress for many years has given sums of money to the states for educational purposes, road building, relief projects, and welfare services. Grants-in-aid are agreements by which the Federal government offers to give financial aid to the states provided that usually the state agrees to share the financial responsibility.

Grants-in-aid are given for specific purposes. To receive grants-in-aid the states must set up proper administrative agencies and comply with federal standards and regulations. No state is obliged to accept these grants. Citizens, however, bring pressure to bear upon their state legislators to secure this assistance. Thus in the field of social security, old-age assistance and aid to dependent children have been accepted by most states after agreeing to conform to federal standards. As the need for help has grown, federal aid has become more and more popular even though it has meant abiding by many restrictions. Thus certain services have been made possible that could not have been carried on constitutionally by one government or financially by another.

Grants-in-aid have been made by the Federal government for many years, but the total sum of money involved before 1915 was relatively small. Federal aid first became substantial when the passage of the Federal Highway Act of 1916 enabled the Department of Agriculture to cooperate with the highway departments of the states in the construction of rural post roads. In order to receive the money allotted by the Federal government, the states were required to match the money granted by the Federal government.

The Smith-Hughes Vocational Educational Act of 1917 also allotted generous sums to the states, under the condition of matching dollar for dollar, for the purpose of teaching trades, home economics, and industrial subjects. The grants were very modest in the beginning, but in the year ending June 30, 1936, the sum of \$771,005,209 was paid to states under the principal federal aid acts.¹ In the years 1933, 1934, and 1935, the Federal government gave \$2,905,701,296 to the states for emergency relief — an amount which furnished 70.9 per cent of the total contributed by federal, state, and local governments.²

¹ From Federal Emergency Relief Administration, *Monthly Report*, June, 1936, p. 181.

² *Ibid.*, Dec., 1935, pp. 101-104.

Grants-in-aid, however, continue to increase and are to be accounted for largely by the provisions of the Social Security Act, which provides for old-age assistance, aid for dependent children, the blind, public health, child welfare, maternal and child health, vocational rehabilitation, and services for crippled children. Under some provisions of this Act, the Federal government matches state and local expenditures without limitation as to the total amount which any state may receive if it meets the other requirements.

Substantial increases in grants-in-aid may be expected. It is not likely that aid now given will be curtailed to any extent in the near future, and it is quite probable that new types of assistance may be added. The financial difficulties of the schools in many states have brought about a growing demand for aid to education so that an adequate standard may be maintained throughout the country and American children may be assured more equal educational opportunities. The demand for services and the inability of some states and local governments to provide the necessary finances point to a probable increase in federal grants-in-aid. Richer states, in the opinion of many, may quite justifiably be required to help the poorer ones in matters of national concern.

Opposition to federal aid has frequently been voiced. It is said that through this medium the Federal government encroaches upon the sovereign rights of the states and that it is unfair to tax the wealthier states to pay for services in the poorer ones. On the other hand, grants-in-aid have proved a boon to states in which constitutional limitations have placed restrictions on the taxing power of the legislature. In Illinois, for instance, the revenue section of the constitution, with its uniform property-tax clause and its rigid limitations as to the kinds of taxes to be levied, does not provide adequate income for essential state and local services. Furthermore, federal supervision is a concomitant of federal aid and has raised state and local standards of administration. These grants-in-aid have made possible services that would otherwise have been abandoned by the states, and have brought about a greater degree of individual security throughout the country by encouraging the states to undertake social services which many of them otherwise would ignore. When social and economic interests can no longer be bounded by state lines, the demand for federal

control on the part of many is certain to prevail. Grants-in-aid can bring the national government to improve such conditions as are of concern to all the people.

Interstate Relations. Each state of the Union is equal to and independent of every other. The Constitution in Article IV, Sections 1 and 2, however, imposes three obligations upon the states: (1) recognition of legal processes and laws; (2) interstate citizenship; (3) rendition of persons accused of crimes.

Recognition of Legal Processes and Laws. The Constitution states that full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every state. One state must recognize the laws of another state as valid in that state. If a resident of Illinois brings suit in an Illinois court and wins a judgment, and if the defendant has no property in that state but owns real estate in Indiana, when the plaintiff presents a certified copy of the judgment in the proper Indiana court, it will not be necessary to try the case again because the judgment will be honored in the courts as are those of its own state. If a will is probated in Ohio and found valid, it will be so regarded in every other state of the Union.

Interstate Citizenship. The Federal Constitution also provides that the citizens of each state shall be entitled to all the privileges and immunities of citizens in the several states, and further, that no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person within its jurisdiction of the equal protection of the laws. These provisions in the Constitution do not permit a state to discriminate in favor of its own citizens against persons coming into its jurisdiction. They make it possible for citizens to meet and move freely about the country, and to live and work wherever they wish. A citizen of New York, upon coming to Kansas, acquires the rights of a citizen of Kansas. The Supreme Court has interpreted privileges and immunities to mean life, liberty, and the right to acquire and use property, and has denied a state the right to discriminate against citizens of other states. This does not prevent a state from imposing residence qualifications for voting and relief, and the courts have not regarded a higher rate of tuition for nonresidents or a higher fee for hunting and fishing licenses as a denial of fundamental rights.

Rendition. The Constitution stipulates that a person charged in any state with treason, felony, or other crime, who shall flee from justice and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime. This provision is to prevent criminals from evading justice by escaping to other jurisdictions. Seemingly the language is mandatory; yet the clause has been interpreted as being permissive, and there is no certainty that the governor will comply with the order for the return of the criminal. Usually, when the demand for the surrender of a fugitive has been made to the governor of the state to which the fugitive has fled, he turns over the fugitive to the police of the state demanding his return. There are a number of instances, however, in which the governor upon whom the demand has been made has refused to comply for some reason, such as, that the person wanted is not a fugitive, the evidence is not sufficient to establish a presumption of guilt, or the accused will not get a fair trial if returned. Compliance in such cases has never been enforced. Courts will not issue a writ of mandamus¹ to compel the governor to act, nor is any penalty inflicted upon the governor for his refusal to hand over the criminal or fugitive.

Interstate Barriers. Americans like to believe that this country is the largest free-trade area in the world. It is their conviction that goods circulate freely from state to state unhampered by tariff walls. The advantage, however, which this country has thus enjoyed is seriously threatened by the growing spirit of sectionalism and the desire of the states to be self-sufficient. This trend is fraught with real danger, and as yet there is not sufficient awareness of the large number and variety of trade barriers that have been erected between the states. These discriminatory laws have any of three objectives: (1) protection of home products, (2) retaliation against states which protect their home products, (3) raising of revenue.

Trade barriers were not unknown in the early history of this country. A record of the times preceding the Constitutional Convention reveals commercial warfare among the states and an economic chaos which threatened the unity of the country. Con-

¹ A writ of mandamus is a command from a superior court to an inferior court, or to an officer or corporation, that a specified thing be done.

necticut levied duties on goods from Massachusetts; New York taxed the butter, cheese, cabbage, and eggs of New Jersey. Madison likened New Jersey between Philadelphia and New York to a cask tapped at both ends, and North Carolina between Virginia and South Carolina to a patient bleeding at both arms. "On the anvil of this experience the Constitutional Convention of 1787 hammered out one of the great implements of federal power."¹ In Article 1, Section 8, the Constitution gives the Federal government the power to regulate interstate commerce by providing "The Congress shall have Power . . . to regulate Commerce with foreign nations and among the several states and with the Indian Tribes" and then again in the same Article, Section 10 sets forth the following prohibition upon the states:

No state shall, without the consent of the Congress, lay any imposts or duties on imports or exports except what may be absolutely necessary for executing its inspection laws and the net produce of all duties and imports laid by any state on imports or exports shall be for the use of the Treasury of the United States; and all such laws be subject to the revision and control of the Congress.

Despite these provisions, trade barriers under various guises are lifting their troublesome heads. Barrier laws have been passed under three types of state powers: (1) taxation, (2) police power to protect the health, safety, morals, and welfare of the people, (3) proprietary power in conservation of natural resources and ownership of public property.

Taxes are levied on all sorts of commodities. Motor-vehicle license fees are exceedingly burdensome although some states grant reciprocity to commercial vehicles. Taxes on trucks not subject to reciprocity are heavy. They vary from \$30 to \$400 on a 5-ton truck. A trucker would be required to pay \$400 in Alabama, \$400 in Georgia, and \$300 in South Carolina, a neat total of \$1100. In order to stimulate the domestic liquor industry, twenty-three states have passed preference laws. Georgia levies a tax of 5 cents a gallon on domestic wine, but for wine from outside the state, 40 cents must be paid. Washington charges a license fee of \$50 for domestic wine, while the importer from another state pays \$250. Alabama taxes manufacturers of alcoholic beverages \$1000 annually for each place of manufacture, but wine

¹ Robert H. Jackson, "The Supreme Court and Interstate Barriers," *The Annals of the American Academy of Political and Social Science*, 207: 70, Jan., 1940.

makers using 75 per cent or more of Alabama raw materials for their wine pay \$25. Margarine taxes are imposed in about half of the states. There are heavy license fees and excises of 5 to 15 cents a pound for this product. When Wisconsin levied 15 cents a pound upon margarine, many of the cotton-oil states retaliated by taxing Wisconsin butter; and Illinois canceled orders for paper products and bathroom equipment from Wisconsin, causing that state to lose orders estimated at several millions of dollars more than the total amount of margarine sold.

The police power of the state in the interest of health sets up barriers through inspection and health laws. A state which sets up very high standards can exclude products which cannot meet them or can refuse inspection on the ground of expense or inconvenience in sending inspectors out of the state. This is particularly true in the case of milk. The Connecticut Milk Commission will not inspect dairies beyond the designated milk shed unless there is a milk shortage. Pennsylvania and New Jersey provide that no permit to sell milk may be issued unless there has been proper inspection of the source of supply. Milk boards have power to fix prices for all milk sold in the state. Marketing of dairy products originating outside the state, such as butter, cream, and ice cream, is regulated. Livestock and agricultural products are entirely controlled through the power of inspection. Twenty-eight states require state-of-origin certificates to show that certain products are free from disease, and then require further inspection upon reaching their destination. Perishable goods awaiting inspection before delivery naturally suffer and shipping is thus discouraged. Livestock is carefully inspected both before and after entry into another state. Ports of entry have been established in many states to enable checking of vehicles and goods. Kansas has 60 such ports, Oklahoma 58, Nebraska 31. True, inspection may give genuine protection to the people, but it also gives the power to exclude and destroy the commerce of other states.

Six states define fresh eggs as eggs laid in the state regardless of how fresh the eggs imported from another state may be. Many states require the state of origin to be on the label, thereby encouraging "buy at home" campaigns. The power of regulation of motor vehicles is a very effective curb on the use of the highways by carriers of other states. There are so many conflicting require-

ments that it is utterly impossible for trucks to meet them all. A trucker in one state may not carry more than 40,000 pounds, while in the next state his load may be three times as great. Texas has a limit of 7000 pounds, Rhode Island 120,000 pounds. There is also considerable variance in height and length regulations and the kind and color of lights for night driving add to the problems of the overburdened truckers.

Under proprietary powers many states favor their own contractors, laborers, and printers; they prefer their own bricks, coal, and various other commodities produced in the state. Some states require their public institutions to use only domestic products. In Illinois, a state institution may not purchase more than 25 per cent of its fats or oils from another state and it must use Illinois coal if the cost is not more than 10 per cent greater. Indiana requires that limestone be used in the construction of public works; Maryland, green marble. Massachusetts requires all public institutions to use milk produced in the state. There are also requirements as to employees. Some states require all laborers on public works to be residents and the minimum period for residence varies from three months to five years. Countless other examples could be quoted.

Although some states hope to increase their revenues through these measures, many of these laws are due to the efforts of small but powerful pressure groups that are promoting their own products. Many laws, too, are due to reprisals; one state hampers the trade of another, and soon laws are passed in retaliation. Thus state protectionism is impeding the free flow of goods and is setting up barriers among the forty-eight states which are contrary to the spirit of American institutions and the welfare of the people.

Trade barriers are a threat to our modern economy if they continue unchecked. Every part of the country should have free access to all of its resources. In a report of the Taxation Committee of the National Conference on Interstate Trade Barriers, it was said:

It is the judgment of this committee that no tax laws should be adopted by any state which imposes higher effective rates of taxation upon interstate than upon intrastate trade; and that the national advantages accruing to residents of a state from trade with residents of other states should not be destroyed through discriminatory tax laws. Attempts to destroy trade advantages or to rob citizens

of comparative benefits from trading abroad in the end redound to the economic disadvantage of the states adopting such practices.¹

In an address before this same conference, Justice Robert H. Jackson, then Solicitor General of the United States, said:

We cannot let tribal instincts create a sense of division among us that would tend to Balkanize America. Balkanism, I suppose, is more a state of mind than a condition of geography. No advantage which community isolation can promise could substitute for our sense of national unity. We cannot let trade selfishness or jealousy set up legal frontiers in America where trade must halt. Such petty barriers have long since proved to be not only economically futile but also disastrous to peace and good will. It is not too much to say that the high living standards of America, the availability for our daily needs of the varied products of the nation and the mass production of our industry are due to the consistency with which this country has pursued the ideal of free trade among the states.²

Interstate Cooperation. Fortunately, there is a trend toward increased cooperation among the states. Interstate compacts are being made frequently. Although the Constitution prohibits any state from entering into any agreement with another state without the consent of Congress, such permission has usually been granted. Thus far Congress has consented to about sixty-seven interstate compacts. The compacts that have been made deal with various subjects; some concern boundaries, use of water, conservation of forests and of oils, construction of bridges, the parole of prisoners, and other problems. The New York Port Authority, for instance, is a compact between the states of New York and New Jersey, with broad powers relating to port and transportation facilities.

Many see in the interstate compact a means of solving regional problems. These agreements are not negotiated easily, and it usually takes a long time for two or more state legislatures to agree to exactly the same conditions. States have conflicting interests, and do not readily give up the powers which these compacts require to carry out their objectives.

Uniform state legislation is helpful in bringing about better cooperation among the states. For many years, efforts have been made to facilitate ordinary business transactions by such means. The Uniform Sales Act, the Uniform Negotiable Instruments Act,

¹ Report of the Committee on Taxation by Simeon E. Leland, Chairman of the Illinois Tax Commission, *Proceedings of the National Conference on Interstate Trade Barriers*, 1936, pp. 96-97.

² Address by Robert H. Jackson, Solicitor General of the United States, before the National Conference on Interstate Trade Barriers, *Proceedings*, 1939, pp. 75-82.

and the Warehouse Receipts Act have been of great aid in making commercial operations safer and simpler. Many other uniform acts have been proposed concerning highway traffic, aviation, and judicial procedure. Once a uniform act is agreed upon at a conference of representatives from various states, the proposed law is submitted to the legislatures of all the states. The laws then are adopted by some states, modified or rejected by others.

There are many forms of interstate comity and cooperation. There are governors' conferences, a council of state governments, and associations of state health authorities, financial officers, and many other agencies who endeavor to bring about closer cooperation among the states and strive to break down the barriers that tend to separate them. Many fact-finding agencies have been helpful in making clear the problems confronting the states and in indicating the advantages to be gained through mutual efforts. Among these are such nongovernmental organizations as the National Safety Council, the American Association for Labor Legislation, the American Automobile Association. Cooperation among the states can prevent some of the weaknesses of federalism and aid in solving many of the problems of our complex and interdependent society.

Federal-City Relations. There is nothing in the Federal Constitution which deals specifically with city government. In fact the first mention of municipalities in a federal statute did not occur until 1932 when the RFC was given the power to make loans directly to cities for self-liquidating projects, provided the governors of the states approved. This, however, does not mean that federal-city relationships were nonexistent. Many of the powers which the Federal government possesses and many of the services which it has performed have brought these two levels of government in direct contact with one another on the basis of both expressed and implied powers in the Constitution.

Urban government has been regarded as being within the sphere of local or of state control; in fact the city has been described as the creature of the state. It possesses whatever powers the state bestows. During the depression the cities found themselves in need of immediate assistance which the states could not provide. Unemployment and relief became such acute problems that municipal authorities naturally begged the Federal government to take

a hand in local matters. Previous to the New Deal, the Federal government gave aid in the form of research, information, and advisory services; grants-in-aid were for highways, vocational education, and rehabilitation. The depression brought in its wake many new federal-municipal relationships.

For those who have been devoted to the principle of local self-government, this recent tendency of the national government to participate in local affairs is distressing. On the other hand, a realistic view of city problems makes the plea for federal aid understandable. At a recent conference of mayors of the United States, these officials pointed with pride to the fact that they had been able to convince the Federal government that the problem of relief was altogether too vast for local governments to handle, and further, that they were the first body of publicly elected officers to sponsor the Works Program and the Housing Program as an undertaking of the Federal government. They pointed out that they preferred federal control and supervision of the WPA to that of the state, and that cities ought to have closer contact with the federal authorities. One of the resolutions passed was:

We reiterate that a work program administered by the Federal Government itself in close cooperation with the local governments instead of forty-eight different systems handled through the forty-eight governors and the state government is more efficient, more economical and more responsive to the needs of the unemployed in our American cities.¹

Federal-municipal relationships are increasing, not only for relief and work projects but for many other services which cities desire for the welfare of their inhabitants. Assistance is sought of the Federal government in building airports and in increasing housing facilities. Municipal authorities ask that federal highway funds be apportioned for street improvements, pointing out that interstate traffic on city streets constitutes a substantial amount of the travel within cities. The Reconstruction Finance Corporation through loans has made large sums available to the cities. Congress passed a Municipal Bankruptcy Act which permitted city governments to avail themselves of the advantage which private persons have when unable to meet their obligations.

¹ Paul V. Betters, ed., *Annual Proceedings of the United States Conference of Mayors, 1938-1939*, Washington, D. C., 1939, pp. 2-3.

National legislation and its enforcement are important factors in the fight of cities against crime. The Federal Bureau of Investigation of the Department of Justice has made a strenuous and effective effort to capture bandits who have robbed national banks or transported stolen automobiles across state lines. Through charges of income-tax evasion, many who were successful in evading local authorities have been prosecuted by the Federal government. There are many regulatory federal agencies which affect municipalities directly. They enforce quarantine and drug laws, provide for the inspection of milk, meat, and various other foods. They regulate municipally owned airports and radio stations.

The Federal government performs many services directly for both rural and urban communities, which are extremely important in influencing their social and economic life. Among these are the services performed under the Social Security Act, the work of the Reconstruction Finance Corporation, the Home Owners' Loan Corporation, the Federal Housing Administration, and the Work Projects Administration.

There are also services to municipalities of another character. An important one is that of public reporting. The Bureau of the Census gathers important urban statistical information, which forms the basis of many important surveys on public health, recreation, and housing. The FBI gathers statistics on crime; the Office of Education, material on schools; the Bureau of Labor, statistical data on employment, pay rolls, and price levels. More recently an Office of Government Reports has been established which provides a central clearinghouse to which citizens and state and local governmental agencies may submit inquiries and complaints and receive advice and information. Research undertaken by the Federal government renders inestimable service to the cities: for example, the testing and codes of the National Bureau of Standards; the work of the Bureau of Mines, Fisheries, Geological Service; the research of the Public Health Service and of the Children's Bureau. The National Resources Planning Board cooperates with the state and city planning agencies. The national government extends advice in financial fields of government, namely, in accounting, budgeting, and reporting. Most national labor legislation affects large sections of the urban population.

The National Resources Planning Board's report on *Urban Gov-*

ernment points out that intergovernmental cooperation avoids the extremes of centralization and decentralization.

Each year the activities of the National Government which affect municipalities increase. In fact the collaborative character of government agencies at various levels is inescapable. The question is how and where. The cooperation of two or more levels of government administering common functions constitutes in itself a democratic method suited to modern requirements.¹

Though federal participation in city affairs is viewed with alarm by some, others greet this trend as a blessing destined to make for better and happier living in the United States.

State-Local Relations. The number and functions of local governments present a very complex picture. There are about 175,000 governments within the respective states. Overlapping, duplication, inefficiency, and waste abound in many areas. Forms of governments for towns and counties which were quite suitable in earlier days, when a predominantly rural mode of life prevailed, are found wanting today.

In some instances, local units carry on functions which should be undertaken by larger agencies. A county jail with few prisoners frequently has a per diem cost higher than that of the most expensive hotels in the country. School districts, on the other hand, find themselves with two or three children for their schools. There was a time when a taxpayer could pay his taxes by repairing roads for several days, but the roads needed today cannot be built in that way. In the metropolitan region of Chicago, taken within a radius of fifty miles from that city, 1642 governments can be found which include 15 counties, 204 cities and villages, 165 townships, 978 school districts, 70 park districts, 4 forest preserve, 11 sanitary, 190 drainage, 1 health, and 4 mosquito-abatement districts.² Consolidation of many of these governments would effect great savings in taxes and also make possible better services.

States have complete power over the cities located within their boundaries. Cities are incorporated by the states and possess whatever powers are granted to them by state constitutions and statutes. Legislative control is exercised by law-making bodies in which

¹ National Resources Committee, *Urban Government*, Vol. I of the Supplementary Report of the Urbanism Committee, Washington, 1939, p. 132.

² Charles E. Merriam, Spencer D. Parratt, and Albert Lepawsky, *The Government of the Metropolitan Region of Chicago*, University of Chicago Press, Chicago, 1933, p. 7. (Some consolidations have taken place in recent years.)

cities are usually underrepresented. Rural interests refuse to give up the power they possess and cities are denied the number of representatives to which their population entitles them. In Illinois, although the constitution clearly orders a redistricting every ten years, no reapportionment has taken place since 1901.

Cities find they possess too little power and must approach their state legislature constantly for permission to carry on what should be the normal functions of a municipality. They must gain consent of the state to license barbers, beauticians or, as in Chicago, ever, to sell peanuts on the Municipal Pier. Any change in the number of officers or in the structure of the city's form of government must first be allowed by the state.

Some people favor more independence for large cities; others regard state centralization as a solution. They believe that the state itself should provide many of the services performed by the local governments, namely roads, schools, health. Some propose the consolidation of governmental units with the county, still others favor structural change, such as a county manager, since most counties have no responsible executive. Most of these proposals are still in the discussion stage. The rigidity of state constitutions, the difficulty with which they are amended, make it almost impossible to bring relief either from excessive taxation or inefficient administration. Many scientific studies, however, are being made by government and private agencies which should ultimately point the way to a closer integration between state and local governments.

Regionalism. Intergovernmental relations are usually thought of in terms of national-state-local governments. To these familiar levels of government there is now added the region. It is generally recognized that no state is actually a unit, socially, economically, or physically; therefore state planning alone is not sufficient. There are many interests such as watersheds, manufacturing areas, transportation, use of land, navigation, natural resources, that do not coincide with state boundaries and require action on the part of an area larger than a single state. The regional level of government is receiving attention especially for planning and action in the conservation and use of natural resources. The regional concept lies between the Federal and state governments in scope and authority.

The role of the state in our history has been exceedingly impor-

tant but so has the role of groups of states. The historian Frederick Jackson Turner has called this interplay of groups of states "sectionalism." In the past it has been viewed as a policy of selfishness; more recently marked regional differences in social and economic problems have come to be recognized. There is an awareness too of the value and importance of protecting the character, resources, and contributions of different sections of the country, so that a more varied and richer life may accrue to the nation.

There is considerable opinion favorable to regional organization, but a wide difference of ideal exists as to the factors that should be considered in the formation of regional boundaries. Many believe that the country should be divided into a small number of geographic and cultural regions. The National Resources Committee, in its studies of regionalism in the United States, made the tentative suggestion that the country be divided into ten or more regions for federal administrative purposes. Central cities were to be designated in each of the regions. They advocate the drawing of definite boundaries between regions, but indicate that these boundaries should be flexible so that they can be expanded or contracted when necessary.¹

The regional plan of administration is used by numerous federal agencies, the War and Navy Departments, the Department of Justice, the Federal Reserve System — in fact, in every instance where the program is nation-wide in scope. This regional approach indicates a trend toward decentralizing federal administration and may be a possible alternative to those who fear a highly centralized administration at Washington and at the same time recognize the many problems arising out of the autonomy of forty-eight states.

Two voluntary agencies that have followed the regional plan are the New England and Pacific Northwest Planning Commissions. Both of these regional boards are made up of members of the state planning boards of the states concerned, the former consisting of Maine, Vermont, New Hampshire, Massachusetts, Connecticut, and Rhode Island, the latter of Idaho, Montana, Oregon, and Washington. A representative of the National Resources Planning Board acts as chairman of the Commission, and he together with

¹ National Resources Committee, *Regional Factors in National Planning and Development*, U. S. Government Printing Office, Washington, D. C., 1935.

the representatives of the states brings the point of view of each of the states, the region, and the country as a whole to the planning agency.

There are also many interstate compacts that follow the regional plan, such as the New York Port Authority, the Colorado River Compact, and the Delaware River Basin. The Port of New York Authority is an example of a bistate agreement. It is a compact supported by concurrent legislation between the states of New York and New Jersey in 1920. It has drawn up a comprehensive plan for the development of the port including belt lines and tunnels and a reorganization of all the rail facilities of that area. The Colorado River Compact includes seven states. Its major purposes are to provide equitable division of the use of the waters of the Colorado River system, to develop the agricultural and industrial uses of the Colorado River basin, to protect life and property from floods and to promote interstate comity generally.

The Tennessee Valley Authority, created in 1933, is an example of a federal regional authority. It has been given power not only to plan but also to put into execution its own programs. It possesses the powers of government and also the flexibility and initiative of private enterprise. It is concerned with a natural geographic, economic, and cultural area — the Tennessee River watershed. It carries on a multiplicity of functions in the fields of water control, power development, flood control, fertilizer improvement, soil erosion. The Authority also maintains general programs of health and sanitation and promotes land planning, housing, and recreational facilities on TVA land and water. It carries on social and economic research. It has even made studies of the archeology of the district, of ceramics, of the conservation of wild life, of vocational training. Its influence has been felt by all those living in the watershed, but its activities and influence extend far beyond.

There are a number of regions which are recognized as differing in natural and cultural character from their neighbors. These are well known too, as is evident by the common use of such terms as the South, Middle West, New England. To some, the region reflects American ideals and needs better than does loyalty to the state. Professor Odum's belief, which many share, is that "due to the bigness of the nation and to its cultural backgrounds and motivations as well as to technological considerations, the regional ap-

proach and analysis is fundamental to any successful, permanent, social planning program or procedure in the United States.”¹

The National Resources Planning Board encourages regional planning. In its report in 1935 on *Regional Factors in National Planning*, it makes a number of recommendations to meet the problems of regional organization for planning, construction, and operation of projects and policies involving more than one state. It recommends that states support permanent state planning boards and advocates federal aid in order to promote interstate and federal coordination. It proposes the setting up of regional planning commissions similar to the Pacific Northwest and the New England as advisory bodies for planning purposes in their respective areas. The Committee encourages interstate compacts and the use of federal corporate authorities similar to the Tennessee Valley Authority.

It favors a permanent advisory National Planning Board to stimulate and encourage regional and state planning and encourages development and planning of projects that will take into consideration regional needs and conditions. It also recommends the regrouping of federal agencies so that instead of more than a hundred different arrangements of districts, with as many as 73 agencies in some cities, there be some 10 or 12 regional centers.²

Although there are some that would go as far as to suggest the abolition of state boundaries and suggest the division of the country into administrative areas, there is little likelihood in view of our tradition of states' rights of such proposals finding much favor. There is, however, a greater awareness of the common interests and problems of groups of states. Regional planning in conjunction with state planning, and with aid and advice from the Federal government, can bring about greater social and economic progress for every section of the country.

Conclusions. Though many regard federalism as an inadequate arrangement to meet the bewildering array of federal, state, and local interrelationships, nevertheless the needs of the times have brought about cooperation between the several levels of govern-

¹ Howard W. Odum, *The Regional Approach to National Social Planning*, Foreign Policy Association, New York, 1935.

² National Resources Committee, *Regional Factors in National Planning and Development*, U. S. Government Printing Office, Washington, D. C., 1935, Chap. 15.

ments that tend to approximate a unitary system. Until recently, states that passed legislation regulating hours of labor or wages could be penalized, because employers who disapproved of such legislation were able to remove their factories to states where laws were more favorable. Even the threat to do so often was effective in blocking such legislation. On the other hand, national legislation makes the avoidance of regulation of working conditions difficult. To be sure, such developments have come slowly and have met with stubborn resistance.

The expansion of the powers and functions of the national government is seemingly inevitable when social and economic interests can no longer be bounded by state lines but become of national concern and demand national responsibility. Federal control is bound to be exercised as the pressure increases for national regulations. There are those who believe that the sooner state boundaries are eliminated and the country is divided into administrative areas, the better conditions will be. There are others who believe that the assumption of power by the national government in so many spheres of activity means the downfall of our system of government.

Centralization of power need not, however, be identified completely with a unitary system, nor decentralization with a federal system. In a unitary system it is possible to have decentralization of power and considerable local self-government; and likewise in a federal system there may be considerable centralization or decentralization, depending upon the actual operation of government. The trend today is toward centralization in both federal and unitary systems. In operation they may actually be much alike, although the tempo may be somewhat slower under federalism. The needs of society have set in motion forces to bring about the desired ends and determine the direction government must take. Government must be responsive to the demands of society. Cooperation of the states and the nation under sound administration can meet the challenge.

TERMS TO BE UNDERSTOOD

administrative areas	grant-in-aid
bill of attainder	habeas corpus
centralization	implied powers
enumerated powers	interstate barriers

ex post facto law	interstate compact
extradition	rendition
federal system	residual powers
unitary system	

QUESTIONS FOR DISCUSSION

1. How can federalism block social legislation? Illustrate.
2. Are the governments of the states and cities in danger because of federal grants-in-aid or because of other invasions of their self-sufficiency and autonomy?
3. Was federalism in the United States established by the Constitution? Explain.
4. Can you envisage a federal union for the countries of Europe? What problems would it solve? What obstacles stand in the way?
5. What are the economic implications of tariff walls among the states? What barriers does your state have against other states?
6. Do you favor federal grants-in-aid for general educational purposes? Why?
7. What services are rendered by the Federal government today that were formerly the sole province of the states? What services does the Federal government perform today that are new?
8. What services does your state government perform that were formerly carried on by local government?
9. What federal officers operate in your city or county? What does each do?
10. What has the depression done to enlarge the services of the Federal government?
11. What grants-in-aid and other federal financial assistance does your state receive? Do you know of any federal aid to which your state might be entitled, of which it does not avail itself?
12. What important recent decisions of the United States Supreme Court have affected the relative power of the national and state government? How? On what sections of the Constitution have these decisions mainly relied?

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METROPOLITAN REGIONS

FROM CITY TO METROPOLITAN REGION

One of the important contemporary developments in our society has been the rise of the metropolitan region as the focal center of economic and social activity. In the United States some 62,958,703 persons were found in the 1940 Census to be residents of the 140 metropolitan districts of the nation. This constitutes almost one-half (47.8 per cent) of the total population of the United States. Sustaining this vast host of people are the great industries and enterprises of commerce and finance which are centered in the great metropolitan regions. In war as in peace, these regions contain the vital organs of the modern industrialized nation.

The Metropolitan Region Defined. The general pattern of these metropolitan regions is almost everywhere the same. Figure 43 shows several typical examples of the larger regions. The core of the region is the central city, around which the suburbs, the satellite cities, and the outlying towns and villages are clustered. The

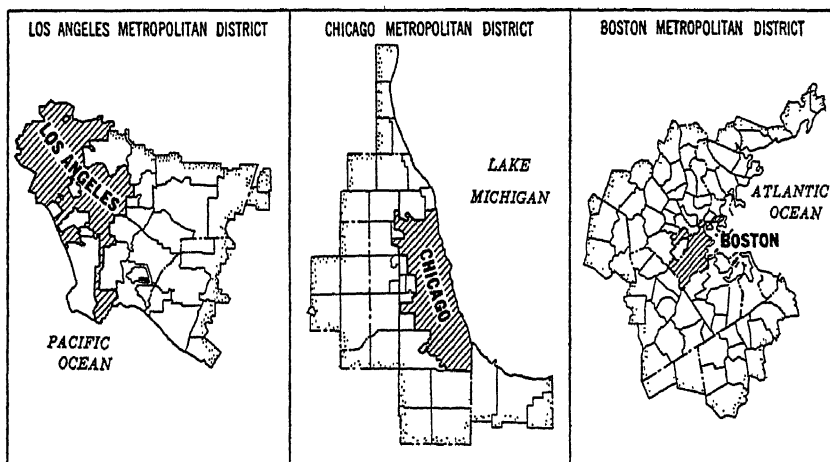


FIG. 43. THE METROPOLITAN DISTRICTS OF LOS ANGELES, CHICAGO AND BOSTON
From preliminary releases of the United States Bureau of the Census.

geographical boundaries of the regions, however, are generally so irregular that it is not easy to find satisfactory standards by which to define their exact limits. A committee appointed by the industrial bureaus of the chambers of commerce in the United States emphasized in a report made in 1927 that a definition of the metropolitan area should be based on the idea that it is "an area within which the conditions of manufacturing, trade, transportation, labor and living, in brief the daily economic and social life, are predominantly influenced by the central city."¹ The United States Chamber of Commerce tried to apply this idea by setting up certain criteria which would determine the boundaries of the metropolitan district. These included telephone service, electric-power service, retail-store delivery, commuting service, water service, gas service, newspaper delivery service, mail delivery, switching limits, sewer service, residential membership in social and athletic clubs, operation of local real-estate companies, and soliciting and collecting routes. As the Bureau of the Census reported, however,

... a subsequent study of the extent of these various factors, their relations one to the other, and the general interpretation made of these by local organizations, made it evident that there was more or less inconsistency and that if the metropolitan districts were to be made uniform and comparable with one another, some factor should be used which could be applied uniformly and consistently to every city.²

The United States Bureau of the Census therefore adopted the following standards for defining metropolitan districts: First, there must be a central city of 50,000 population or more. Second, the region should include all adjacent and contiguous minor civil divisions (such as townships) with a density of population of at least 150 persons per square mile, "and also, as a rule, those civil divisions of less density that are directly contiguous to the central cities, or are entirely or nearly surrounded by minor civil divisions that have the required density."³

The Suburban Trend. As has been indicated, the 1940 Census revealed that there were 140 metropolitan districts in the United

¹ *Fifteenth Census of the United States: 1930. "Metropolitan Districts: Population and Area,"* U. S. Government Printing Office, Washington, D. C., 1932, p. 1, n. 1.

² *Ibid.*

³ For the 1930 Census the Bureau had a third requirement, that the total population of the metropolitan district be 100,000 or more. There were only 96 districts which met this standard. *Ibid.*, p. 5.

States. (See Fig. 44 for the location of these districts.) Sixty-eight per cent of the total population of these districts were found to live within the central cities and 32 per cent in the suburbs. It is apparent, then, that the central cities are the dominant centers in the metropolitan areas. Further scrutiny of the census figures reveals, however, that the suburban fringes of the metropolitan regions have been growing more rapidly than have the central

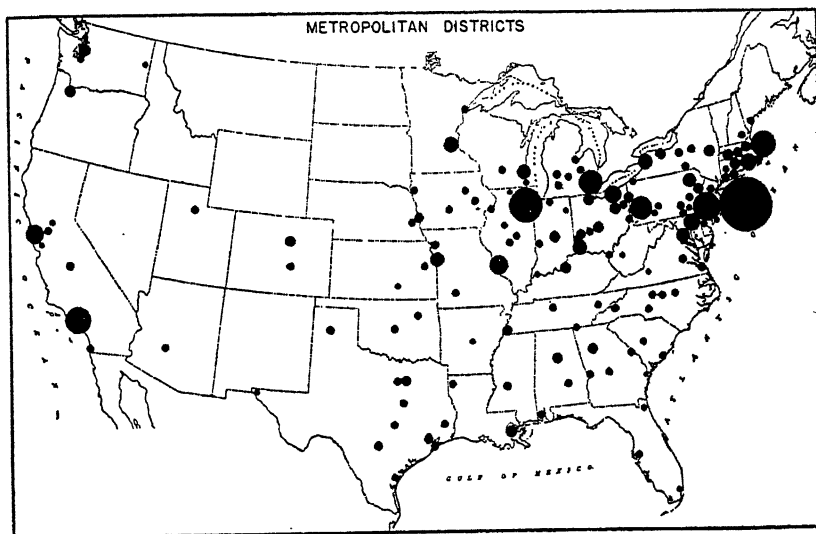


FIG. 44. THE 140 METROPOLITAN DISTRICTS OF THE UNITED STATES, 1940

Based on preliminary releases of the United States Bureau of the Census and adapted from National Resources Committee, *Our Cities*, U. S. Government Printing Office, Washington, D. C., 1937, Fig. 51.

cities. Indeed, in view of the recent trend revealed in the 1940 Census it can be said that the movement of the population toward the periphery of the metropolitan region is now reaching the point where virtually the whole inner city is either stationary or declining in population. Thus, for the 133 areas for which comparable figures are available for 1930 and 1940, the population of the central cities increased approximately 4.98 per cent between 1930 and 1940, whereas the population outside the central cities increased approximately 15.78 per cent. In other words, the outside areas grew over three times as rapidly as the central cities. In some of the largest metropolitan regions the differential was even more striking. In the Chicago area the population of the central city increased

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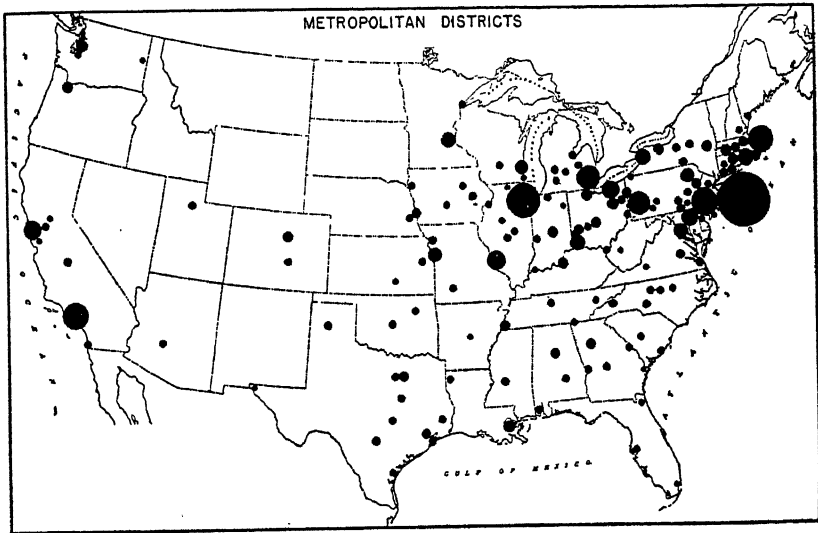


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only 0.6 per cent while the suburbs increased 11.5 per cent. Detroit increased 3.5 per cent; its suburbs 25.4 per cent. San Francisco and Oakland increased 2 per cent; their suburbs 32.3 per cent.

The movement to the suburbs has reached such proportions that many large cities have actually begun to lose population in absolute numbers. Thus in 36 of the 133 metropolitan districts for which the data are available, the central cities had smaller populations in 1940 than in 1930.¹ Of the ten largest cities in the United States, four had a net loss in population. These were Philadelphia, Boston, St. Louis, and Cleveland. Three other of these cities, Chicago, Pittsburgh, and San Francisco, gained less than 25,000. This means that many metropolitan districts are emptying out their centers and are growing principally in the outer circles.

Factors in the Suburban Trend. This movement to the suburbs seems to rest upon the desire to enjoy the advantages of both urban and rural life while depending upon an essentially industrialized economy for a livelihood. Many persons have found that however good the modern city is as a place in which to earn a living, it is sometimes not the ideal place to live. Congestion, lack of playgrounds for the children, smoke, noise, high taxes and high rents — these are some of the faults of big city life. The suburbs offer escape from the worst aspects of these characteristics of urban life and at the same time keep the economic, cultural, and social advantages of the large city within reach. The suburbs, furthermore, offer such attractions as congenial neighbors, social status, greater security of property values, greater opportunity to participate in community life and to mold community decisions, escape from the regulations of the city, and escape from high labor costs.

But this happy compromise between the large city and the country — the suburb — would not have become possible if it had not been for certain inventions and technological developments. Without doubt, the most important of these was the development of rapid local transportation. In the early stages of the rise of the suburbs and satellite cities the railroad, with its suburban commuting service, was the medium of transportation. That is why most of the early suburbs and satellite cities grew up along the railroad lines. The suburban train is still an important medium of trans-

¹ All figures for the 1940 Census are based on preliminary reports of the Bureau of the Census.

portation in the metropolitan region, especially for the outlying districts. But toward the end of the nineteenth century the electric trolley, replacing the cable- and horsecars, began to play a major role. Whether elevated, on the surface, or in the subways, the electric car still provides transportation for millions of suburbanites who must get to the city each workday to man the factories, run the stores, and direct the city's business. The most important of all today, however, are the automobile and the motorbus, which, aided by the development of modern highways, have brought hitherto inaccessible places within the daily reach of the big city.

The extension of other modern conveniences to outlying districts has also been of importance in the rise of the metropolitan region. The telephone, electricity, gas, water, sewers — all have been made available in wide areas around the large cities. Families have found it possible, therefore, to have most of the conveniences of both the city and the country in the suburbs.

CHARACTERISTICS OF METROPOLITAN REGIONS

Metropolitan regions are generally characterized by a considerable degree of social and economic interdependence and by a great lack of political unity. Indeed, this may be said to be the basis of the problems of the metropolitan regions. Socially and economically the influence of the central city dominates the whole region; but from the point of view of governmental organization, the region is broken up into numerous independent units of which the central city is only one.

Social Interdependence. That there is a significant degree of social interdependence among the suburbs, satellite cities, and the metropolis is well known to those who are familiar with life in the metropolitan regions. Residents of the region avail themselves of the advantages of the central city, such as libraries, theaters, operas, symphonies, museums, zoos, parks, lecture forums, amusement centers, baseball clubs, and other cultural and recreational facilities. To be sure, the suburbs and satellite cities themselves possess some of these facilities, such as parks and libraries. Nor is the interdependence entirely in one direction. The residents of the large cities pour forth into the outlying districts of the metropolitan regions on Sundays and holidays, perhaps just for a cooling ride, perhaps to visit outer parks or places of special attraction. Anyone

who has traveled the highways in and about large cities is only too familiar with the Sunday "traffic jam" which results from this intraregional movement.

Other agencies serve to provide a common social and intellectual background for the inhabitants of the metropolitan regions. To a certain extent the radio stations of the central cities play their part. Although national hookups and the ease with which out-of-town stations can be reached on most receiving sets tend to make the radio a national rather than a local agency, there is still a certain amount of local color in the metropolitan radio station; and just because of the chain systems most persons do not bother to tune in on out-of-town stations.

Much more important than the radio is the metropolitan press. Available to every family in the region are generally one or more morning and evening papers. Although some of the Sunday editions of the great metropolitan papers contain special sections of local news, for the most part all the residents of the metropolitan region read the same newspapers day after day, week after week. It is no wonder, then, that those who live in the metropolitan region have a certain common background which makes for a measure of community of feeling.

Economic Interdependence. The real basis of the metropolitan community, however, is undoubtedly largely economic. Here again the central city is the dominant center of influence. Thousands of persons commute every workday to the central city from their suburban or outlying homes to earn their daily bread and return each evening to enjoy the advantages of suburban life. Not only is the money earned in the central city, but much of it is spent there also. The largest department stores, specialty shops, and amusement centers are usually found in the big city. There, too, are the leading specialists. Goods and services are generally obtainable at lower prices and in greater variety in the central city than in the suburbs and outlying districts. The great number of customers who may be seen crowding the central city's sidewalks on any good shopping day make this possible.

As in the case of the social and cultural interdependence of the metropolitan region so in the economic realm the dominance of the central city should not be exaggerated. Many inhabitants of the central city depend upon work in the suburbs or in satellite

cities for their livelihoods, and there is a certain amount of daily movement of labor between suburbs. With the increased industrial use of electricity and motor-truck transportation there has been a definite tendency toward the decentralization of industry. Oftentimes cheaper and more convenient factory sites can be found in the less densely populated peripheral areas than in the central city. In the well-populated suburbs many secondary shopping and business areas have developed quite beyond the small-town stage, and it is not unusual to have branches of large downtown department stores in these areas. With the increasing traffic and parking problems of big cities it would not be surprising to see this decentralization continue at an increasing rate. At the present time, however, it still remains true that the central city is the dominant influence in the economic life of the metropolitan region.

Political Disunity. The contrast between the social and economic unity of the metropolitan community and its political disunity is quite sharp. One might expect, in the light of the basic social and economic unity of the metropolitan regions, that each region would have but one local metropolitan government over the whole region. But that is very far from the actual situation. There are literally thousands of different local governmental units which try to manage the affairs of government of the 140 metropolitan regions in the United States. The 1940 Census revealed that there were no fewer than 1789 incorporated municipalities within these regions.¹ Twenty-eight of the regions cut across state boundaries, and all together some 305 counties as well as numerous townships were involved in the regions. Besides these basic units of government there are numerous special taxing and administrative districts of all kinds, such as school, sewer, library, health, park, forest-preserve, street-lighting, water, and even some mosquito-abatement districts. Instead of simplicity and unity of governmental organization in the metropolitan regions, there is such a hodgepodge of complexity that it is difficult to ascertain just how complicated the situation really is.

The explanation of this political complexity is in part historical.

¹ Calculated from the individual reports on each of the 140 districts released by the Bureau of the Census. That the multiplication of incorporated municipalities is still going on is indicated by the fact that the 96 metropolitan districts of the 1930 Census contained 1687 incorporated local governments in 1940 as compared with 1566 in 1930.

The metropolitan regions were not planned from some over-all point of view. Like Topsy, they just grew. Some of the incorporated towns and cities which are now considered an integral part of the metropolitan region were originally quite separate and distinct from the central city. When founded, they naturally sought and secured their own municipal charters to supply them with such local governmental services as they needed. It has only been in recent decades that the metropolitan region has grown outward from the central city to include them. In other cases, the population overflowed from the central city into the suburbs, where the people either preferred independent local governments or found it less difficult to secure a charter of incorporation than to arrange for the extension of the boundaries of the central city to take them in.

There are other causes of the lag between the political developments and the social and economic factors. Local government in the United States is an agency of the states and possesses only such powers as the states under their constitutions and legislative statutes grant. This means that some sort of state action, generally by amendment to the state constitution or by legislative enactment, must be taken before changes may be made in the political organization of metropolitan areas. But the amendment of state constitutions is usually rather difficult, and state legislatures are generally dominated by rural representatives who have only limited understanding of the problems of metropolitan areas and who are quite often unsympathetic with reform proposals emanating from the big cities.¹ Politicians in the metropolitan regions themselves are generally opposed to progressive reforms which may threaten their political power. Most of the people who reside in the metropolitan regions are more interested in making a living and in their own immediate problems than in civic problems which do not seem to affect them seriously and directly. Furthermore, it has become the established procedure to submit proposals for reorganizing metropolitan areas to the voters of the important local units, who, for reasons to be pointed out later, will usually defeat the proposals. With the numerous legal and political obstacles which exist, it is hardly to be wondered that far-reaching changes in the government of metropolitan regions are not very frequent.

¹ See the article by David O. Walter, "Representation of Metropolitan Districts," *National Municipal Review*, 27: 129-137, 1938.

POLITICAL PROBLEMS IN METROPOLITAN REGIONS

This lag between the political organization on the one hand and the social and economic organization on the other has produced certain important strains and stresses which may rightly be called "social" or "political" problems. Some of these problems are obvious and others have been rather obscure to all but the specialist in politics and administration. Furthermore, certain matters appear as important problems to inhabitants of certain sections of the metropolitan region but do not appear as problems at all to inhabitants of other sections of the region. For the sake of clarity, therefore, the major governmental problems of the metropolitan region will be approached from the point of view of certain groups in the region and then from an over-all point of view.

The View of the Central City. The central city faces some very important problems as a result of the development of the metropolitan regions. It has been pointed out that the population growth of the central cities has tended to slow down and in many cases actually to go in reverse, with a net loss of population. To some boosters of bigness this loss of population in itself has been somewhat of a blow, especially if it has caused the central city to fall lower in the size ranking of the big cities of the United States. Whether the ability to advertise a city as the fourth rather than the eighth largest city in the country is of real or only fancied value is not clear. But the loss of population to the central city has brought real problems. The general result is deflationary. Real-estate values either cease to expand rapidly or actually begin to contract. The central city thus loses considerable taxable wealth. Industrial decentralization, made possible by the increasing use of electricity in industry, has also deprived the central city of great sources of revenue. Blighted areas which are left by these changes bring in little revenue to the city treasury and are a big expense because of problems of physical deterioration, fire risk, public health, crime, and delinquency. In fact, blighted areas are generally deficit areas because they cost more to service than they return in taxes. For instance, the loss of school children leaves schools in the core of the city empty or partially empty. The city, however, must maintain this obsolescent plant just the same. It is no wonder, then, that many large cities face increas-

ingly burdensome fiscal problems and that some are even threatened with bankruptcy. The large cities also suffer from the loss of available leadership when so many of their wealthiest and most competent citizens move to the suburbs.

Because it is losing so much to the suburbs, it is understandable that the central city is generally quite dissatisfied with the failure of the metropolitan region to achieve some sort of political unity which will bring the well-to-do suburbs back within the taxing range of the central city. Since most of the facilities of the big city, such as its streets, parks, museums, as well as its economic opportunities, are available to the suburbanites, it can be seen that there is some ground for the dissatisfaction of the central city with the present situation. At the same time it should be pointed out that in the long run the big city will probably derive some advantages from reduced congestion. It is often too crowded for its own good. Furthermore, the big cities are having to learn to meet their own problems. In some places there is an attempt to accomplish this through economy in government. In other cases the cities try to make living conditions attractive enough to hold their inhabitants. Witness, for example, electrification of railroads and smoke elimination programs. With the aid of federal grants, the cities are beginning to move in the direction of slum clearance, rehabilitation of the blighted areas, creation of modern housing units, parks, and playgrounds. But in spite of these ameliorating factors the central cities generally still have many reasons to favor some kind of political unification in the metropolitan regions so that once again they may secure the power and authority to deal more adequately with their problems.

The View of the Incorporated Suburb. The average incorporated suburb in the metropolitan region usually views the problem of metropolitan government differently from the way in which the central city conceives it. Suburbanites generally are not fully aware of the serious problems the central city faces. This is especially true if the incorporated suburb is well established and has a long history behind it. Such a suburb is generally proud of its independent existence and has usually adjusted its governmental affairs to its own satisfaction. If the taxes are a bit high — and they are seldom as high as in the central city — the residents can generally afford them and believe their local school system and

government are worth the extra cost. Sometimes the newer incorporated suburbs suffer from growing pains and, lacking any well-established tradition of local autonomy, may be less reluctant than the established suburbs to accept some type of change in local governmental areas. But generally speaking, the incorporated suburbs are aware of few, if any, particular problems of government associated with the metropolitan region, are thankful to be out of the reach of urban taxes and controls, are willing to accept all the benefits which the central city confers on them without cost, and are proud of their own local institutions.

The View of the Unincorporated Suburb. A still different view is generally taken by the inhabitants of the unincorporated but densely populated areas which are found in the metropolitan regions. They desire the services which only well-equipped local governments can bring, but they do not want to pay the taxes which are necessary to bring these services. These areas are generally occupied by the less wealthy groups who want to get away from the poorer sections of the city but who lack the wealth to move into the more fashionable suburbs. Sometimes they are simply subdivisions which have sprung up so rapidly that they have not been under the necessity of dealing with local governmental problems. Whatever the situation, these areas usually desire more adequate governmental facilities, provided the cost is not too great.

The View of the Rural Areas. A fourth and final type of area within the metropolitan region is the farming area scattered among the urban districts, especially on the periphery of the region but sometimes even within the limits of the central city. The inhabitants of these areas generally are accustomed to very little local government and do not desire any over-all metropolitan government because they know it could bring them few if any services of which they feel in need and they fear it might bring them increased taxes.

The Over-All View. From the point of view of the political scientist the metropolitan region appears to contain an inefficient and uneconomical assortment of overlapping and duplicating local governments which need to be unified and simplified as much as possible. The figures which have already been cited showing that there are almost 1800 incorporated places within the 140 metro-

politan regions of the United States seem to give ample evidence of unnecessary governmental units within these areas. The existence of such wasteful duplication is believed to add greatly to the cost of government, although it must be admitted that it is difficult to prove this assertion.

The present governmental organization of the metropolitan regions appears to fall far short of the ideal not only with respect to cost but also with respect to performance. The great weakness in performance is the lack of coordinated action in solving the problems which are common to all or most of the communities in the region. Examples of such problems are those dealing with water supply, sewage disposal, fire and police protection, road construction, public health and welfare, and, above all, planning. As is stated in one study of this topic:

Few municipalities can really plan and execute proper systems for any of these purposes, and as the attempt is made, particularly in the metropolitan areas, municipal neighbors are encountered on all sides who are engaged, at great expense, in trying to do the same things. Naturally there is duplication of facilities, waste of funds and of effort, when a given territory and a given population in that territory are to be supplied with various services by a number of small, competing, inadequate jurisdictions. Naturally, also, the aggregate of these small plans will seldom be as satisfactory in design or in execution as would be a more comprehensive plan for the larger groups.¹

Only a few specific examples of the problems confronted in modern metropolitan regions can be cited here. One of the most striking is that of police administration. With modern means of transportation, highly organized criminal elements can and do ignore political boundaries. Police departments within metropolitan regions therefore face a real problem of coordination. Of the Chicago region it has been written:

The 350 police forces of the region and the 350 other private forces are opposed by a fairly well-united counter-organization of criminal interests; but even where crime is sporadic and individual, these numerous agencies find difficulty in coming together for effective concerted action.²

¹ Report No. 1 of the Commission to Investigate County and Municipal Taxation and Expenditures, *The Organization, Functions, and Expenditures of Local Government in New Jersey*, p. 175, quoted by Charles M. Kneier, *City Government in the United States*, Harper & Brothers, New York, 1934, p. 442.

² Charles E. Merriam, Spencer D. Parratt, and Albert Lepawsky, *The Government of the Metropolitan Region of Chicago*, University of Chicago Press, Chicago, 1933, p. 86.

Delay in notifying neighboring police of holdups, failure to coordinate effectively the distribution of men, confusion over the handling of border-line cases — these have been some of the results of Chicagoland's lack of a unified metropolitan police. This situation is duplicated in other metropolitan areas. In that part of the Cleveland metropolitan region which lies within the 465 square miles of Cuyahoga County, for example, there are reported to be 61 police departments of various types. Their annual expenditures range from \$50 to \$4,000,000 each, and the per capita costs run as high as \$30.25 in one local unit as compared with \$4.79 in Cleveland itself.¹

Another difficult problem in metropolitan regions is that of meeting the need for an adequate water system. Different geographical conditions make generalizations concerning the nature of this problem unwise. Important, in any case, is the question of where the source of the water lies in relation to the various sections of the metropolitan region. Some large cities, like Chicago, lie between the great source of drinking water and many of the suburban municipalities. When such is the case, the latter must purchase their water from the central city or rely upon some local source, such as artesian wells. When the supply of water is in the hinterland, the problem is reversed. Whatever the peculiar circumstances of particular cases, it may be said that whenever municipalities lie athwart the water supply of neighboring communities, some sort of special arrangement must be made to solve the problem.

Perhaps one of the most serious results of the lack of adequate government for metropolitan regions is the obstruction to long-range, comprehensive planning. Planning is important because it provides blueprints for the orderly and rational development of such things as streets, highways, and other means of transportation; parks and playgrounds; utilities and municipal services; and zoning for industrial, commercial, and residential purposes. If planning for metropolitan areas is to bear maximum fruit, it should apply to all of the area concerned and not just to part of it. For example, a central city could hardly construct an arterial highway to its limits without assurance that the adjacent suburb

¹ Christian L. Larsen, "Cleveland — Potential City of a Million," *National Municipal Review*, 30: 335, 1941.

or suburbs would provide adequate outlets for the traffic. Or, to cite another example, zoning¹ by contiguous municipalities might encounter real snags unless some sort of master plan were being followed, because, otherwise, industrial zones might be designated by one municipality next to residential zones of its neighbor. Because planning involves important long-range projects of a permanent or quasipermanent nature, it is highly desirable to solve the problem of integrating the government of metropolitan areas at least to the extent of providing for some type of over-all planning.

METHODS OF MEETING THE POLITICAL PROBLEMS IN METROPOLITAN REGIONS

Annexation. Theoretically, one of the simplest ways to achieve political unity in a metropolitan region is to have the central city annex the adjacent suburban areas. In the early history of most American cities, periodic annexations of this sort were the customary thing. In more recent times, however, it has become increasingly difficult — in fact, practically impossible — for the central cities of metropolitan regions to grow in this manner. One of the main reasons for this is that almost everywhere it has become a procedural requirement that annexation proposals be submitted to a popular vote in the city which is to do the annexing, in the area which is to be annexed, and often in the larger civil jurisdiction such as county or city in which the area to be annexed is located. A majority is generally required in each of these units. The central cities usually have little difficulty in mustering a favorable vote within their own limits, but the suburbs are generally unwilling to be swallowed up by the big city for reasons that have already been indicated. Where the final authority for approving annexations lies with the state legislature the problem is no easier, because the large rural representations which usually control the legislature are regularly reluctant to force the suburbs to submit to the large cities against their wills. Virginia is one state which allows annexation proposals to be decided by three-judge annexation courts, with appeals from their decisions going to the highest court of the state. In Virginia the cities desirous of annexing adjacent suburban areas have generally been successful. Just recently, for example, the annexation by Richmond of nearly ten

¹ By "zoning" is meant regulation of land use.

square miles and 15,000 persons from Henrico County was upheld by the state's highest court.¹ Certain other cities such as Detroit and Los Angeles have made important additions through annexation in recent decades, but significant annexations are now generally recognized to be politically impossible in most metropolitan situations.

When annexation has taken place it has often been piecemeal, leaving large urban areas outside the city. Sometimes it has gone to the other extreme and taken in large rural areas, as for example in Los Angeles. Sometimes annexation has even left little island cities within the larger city. Thus, Los Angeles has fourteen independent cities within its boundaries; Detroit and Cincinnati, two; Cleveland, Johnstown, Pittsburgh, and Oakland, one each.²

Consolidation. A second possible solution to the problem of simplifying the governmental structure in metropolitan regions is that of consolidation or merger. This involves the combining of two or more local governmental units into a new unit which carries on the functions of the old but eliminates the duplication of structure. Thus, it is conceivable that under proper constitutional or legislative authorization all of the local governmental units in a metropolitan region might decide to scrap their old agencies of local government and merge their functions under a new government for the whole region. That would be a thoroughgoing consolidation or merger. Because of legal and political obstacles, such a sweeping type of consolidation has been found to be outside the realm of probability.

A less ambitious type of consolidation is that of the local governments within the county which contains the central city. This is known as "city-county consolidation." To the extent to which the metropolitan region lies outside the county the consolidation is an incomplete solution, but in most metropolitan regions it would be a great improvement over the existing arrangement. This type of consolidation has therefore received some attention in the past decade. Milwaukee has taken certain steps toward

¹ Thomas H. Reed, "The Metropolitan Problem — 1941," *National Municipal Review*, 30: 404, n. 3, 1941.

² Albert Lepawsky, "Development of Urban Government," *Urban Government*, Vol. I of the Supplementary Report of the Urbanism Committee to the National Resources Committee, Washington, D. C., 1939, p. 33. Hamtramck, within Detroit, has a population of almost 50,000.

such a solution.¹ In 1939 Cleveland and Cuyahoga County, Ohio, were considering the consolidation of their governments, with an optional borough plan for those sections of the county which desired it. Similarly, in 1939 and 1940, city-county merger plans were being considered in Louisville and Atlanta, respectively.² Several states, including Ohio, New York, Texas, and Tennessee, are reported to have taken legal steps to permit cities and counties to merge in whole or in part.³ In spite of such activity, however, city-county consolidation has made even less headway in the last two decades than annexation as a solution to the metropolitan problem.⁴

There are, however, some early examples of city-county consolidations to which reference should be made. Philadelphia in 1854, New Orleans in 1874, and Brooklyn in 1888-1897 may be mentioned.⁵ The Philadelphia city-county consolidation has recently been subjected to criticism, largely because the consolidation is not complete enough to permit the use of centralized administrative and fiscal control, the merit system, or centralized purchasing. An attempt to remedy these defects by amendment of the state constitution was defeated in 1937, although the voters of Philadelphia were three to two in favor of the move.⁶

In addition to the types of consolidation which have already been discussed, there may be consolidation of cities within the region. While consolidations of this type have been rather few, there are several notable examples involving the cities of New Orleans, 1852; Cleveland, 1854; Denver, 1859-1860; Portland, 1891; and New York, 1898.⁷ Departments within local govern-

¹ John B. Blandford, Jr., "Administrative Organization," *The Municipal Year Book*, 1935, Chicago, 1935, p. 11.

² Paul W. Wager, "City-County Consolidations Recommended for Cleveland and Louisville," *National Municipal Review*, 28: 473-475, 1939. Anon., "Atlanta City-County Merger Fought," *ibid.*, 29: 209, 1940.

³ Lewis W. Bailey, "Dallas Weighs City-County Merger," *ibid.*, 29: 376-379, 1940. Anon., "Tennessee Consolidation Statutes Stir Further Action," *ibid.*, p. 209. Reed, *loc. cit.*, p. 402.

⁴ Reed refers to city-county consolidation proposals which were defeated in the 1920's. *Loc. cit.*, p. 402.

⁵ Paul Studenski and the Committee on Metropolitan Government of the National Municipal League, *The Government of Metropolitan Areas*, The National Municipal League, New York, 1930, p. 171.

⁶ Frederick P. Gruenberg, "Philadelphia's City-County Dilemma," *National Municipal Review*, 29: 385-387, 395, 1940.

⁷ Studenski *et al.*, *op. cit.*, pp. 66-67.

ments may also be consolidated, as in Chicago in 1934 when twenty-two neighborhood park boards were consolidated into one Chicago Park District.

City-County Separation. Another attempt to meet the problem of governing the metropolitan areas has been the separation of the central city from the county in which it is located. Baltimore in 1851, San Francisco in 1856, St. Louis in 1876, and Denver in 1902-1916 are important examples of city-county separation. These cities also have status as counties, but most of the regular county functions have been merged with those of the city; and it is perhaps for this reason that the arrangements in these cases are sometimes referred to as examples of city-county consolidation.¹ It makes for clarity, however, to stress the fact that these cities separated from the counties in which they were originally located, and so it seems well to put them in the category of city-county separation rather than in the category of city-county consolidation.

The separation of a large city from the county in which it is located is hardly a solution to the problem of governmental organization for the whole region. In fact, city-county separation was used in the cases cited above in a period before there were many, if any, metropolitan problems and was really intended to free the city from the county government, which was designed for rural areas and is largely superfluous in large cities. To some extent city-county separation eliminates the overlapping of local layers of government over the central city and probably reduces the cost of government. Thus, considerable saving has been claimed for the cities of Denver and San Francisco as a result of their elimination of superfluous county government.² No coordination or unification, however, of the units of government in the region outside the central city is achieved, and the central city may find, as has St. Louis, that its separation from the county places new obstacles in the way to further solution of the metropolitan problem.

Because city-county separation is not a satisfactory approach to the metropolitan problem, not many attempts to use it seem to have been made in recent years. San Diego was reported in 1939

¹ See, for example, Reed, *loc. cit.*, p. 403.

² Mayo Fesler, "Denver Consolidation a Shining Light," *National Municipal Review*, 29: 380-384, 1940. Alfred F. Smith, "San Francisco: A Pioneer in the Consolidation Movement," *ibid.*, 30: 152, 1941.

to be considering it as a possible solution to some of her problems.¹ In Virginia—all cities with 10,000 or more population are separated from the counties in which they were originally located. It should be recalled, however, that cities in Virginia may annex adjacent urban territories through judicial proceedings rather than through popular referenda and that in almost every case annexation has been achieved when sought. It is the annexation rather than the city-county separation which is of value in dealing with the metropolitan problem of today. Furthermore, it should be pointed out that there is danger in such procedure that the rump county which is left after the urban areas withdraw may be too poor to support its governmental services. State grants-in-aid and county consolidations may, however, provide a solution to this aspect of the problem.

Metropolitan Federation. It has been indicated that one of the chief reasons for the opposition of the voters in suburbs and other districts outside the central city to annexation or any unitary supergovernment for the metropolitan region has been the desire to maintain control over their own local affairs. Although intelligent suburbanites might recognize the desirability for some control on a metropolitan scale of such enterprises as parks, highways, and planning, they are reluctant to give up their local self-government.

For this sort of situation the federal² type of metropolitan government has been advanced as a suitable compromise to permit the retention of local self-government by the existing suburbs and, at the same time, to create an over-all metropolitan government to handle problems beyond the scope of the smaller units of municipal government. Under this scheme there are two levels of government in the metropolitan area. The top level consists of the metropolitan government with jurisdiction over the entire metropolitan region to handle region-wide problems. The second level consists of local municipal governments handling local matters.

There are certain objections to the use of the federal idea in metropolitan governments. There would be much difficulty in drawing the line between the powers of the local units and those

¹ Paul W. Wager, "County Consolidations Versus County Secessions," *ibid.*, 28: 252, 1939.

² See Chap. X for a fuller statement of federalism.

of the metropolitan government. The result would be confusion and perhaps costly litigation. It is argued in the second place that the federal type of metropolitan government would be uneconomical. There are already too many governmental units in metropolitan regions. To adopt the federal scheme would be to impose one more layer of government. Instead of the economies of consolidation there would be the expenses of duplication.

Metropolitan federation has not met with much favor in the United States. New York City, with its five boroughs of Manhattan, Brooklyn, Queens, Bronx, and Richmond, is not so much an example of federalism as it is an example of administrative decentralization. "The boroughs have no local legislatures or corporate status; they are electoral, administrative, and, since each coincides with a county, judicial districts."¹ Each of the five boroughs elects a borough president who, in addition to performing certain important functions as an official in the government of Greater New York, has important local powers. These powers relate to local street and sewer construction and maintenance; local improvement boards; local public works; and other local administrative functions.

Attempts to secure federal schemes for other cities in the United States have met with failure. Thus, proposals for Oakland, Pittsburgh, and St. Louis were defeated in 1922, 1929, and 1930, respectively. Berlin, Germany, until the rise of Hitler, possessed a federal type of government. Perhaps the greatest example of this form of government, however, is that of the County of London, where there are twenty-eight constituent boroughs as well as the City of London itself.

Independent Statehood. An extreme solution to the problem of integration in metropolitan regions, which has been given serious consideration thus far mainly in academic writings, is that of independent statehood for such areas. It is argued that, since many metropolitan districts, such as New York, Chicago, and St. Louis, extend over parts of two or more states, the best possible solution would be to create new states with these metropolitan areas as their cores. While in theory much might be said for this type of reorganization, there are so many obstacles to such schemes that

¹ Roger H. Wells, *American Local Government*, McGraw-Hill Book Company, Inc., New York, 1939, p. 102.

so far as is known no serious practical efforts have been made to effectuate them. Each state involved, plus the Congress of the United States, would have to give its consent to the creation of new metropolitan states. If it has been so difficult to secure the consent of state legislatures to put into operation some of the much milder solutions already discussed, the more revolutionary solution of statehood would seem to stand even less chance of adoption. Perhaps such a sweeping reform would be possible only as a part of a general reorganization of areas of government in the United States.¹

Special Metropolitan Districts. Because of the difficulty of securing any of the more comprehensive solutions to the problem of unifying the government of metropolitan areas, much resort has been made in practice to partial techniques. One of the most popular of these has been the special district (sometimes referred to as the *ad hoc* district). When individual municipalities within the metropolitan region discover that it requires some larger agency than their own to cope with some particular regional problem, they often try to persuade the state legislature to pass an act setting up a special district agency for the purpose of dealing with the particular problem. A commission or other type of governing board, elective or appointive, may then be created with certain powers of its own. The special district is, therefore, a sort of local government with a single or, sometimes, several functions. Independent existence, authority, and taxing power are the usual characteristics of these special districts.

There are countless examples of the use of special districts in metropolitan areas. In Chicagoland there is the Sanitary District, dating from 1889, created to handle the disposal of sewage. The Cook County Forest Preserve enables Cook County residents, including those of Chicago, to enjoy an excellent system of outer parks and forest preserves. Cleveland has a Metropolitan Park District and also a Metropolitan Housing Authority. Detroit, shortly after 1925, established a Port of Detroit Commission with authority to make harbor improvements and to provide transfer

¹ See Wells, *op. cit.*, p. 103; and Merriam, Parratt, and Lepawsky, *op. cit.*, Chap. 28. The more modest suggestion of greater powers for the local city or regional government, and greater autonomy from the state, generally referred to as "home rule," is discussed by Albert Lepawsky, in *Home Rule for Metropolitan Chicago*, University of Chicago Press, Chicago, 1935.

and terminal facilities for the port. In November of 1940 the voters of the Detroit area approved the establishment of the Huron-Clinton Metropolitan Authority for the purpose of planning and developing parks, connecting drives, and limited access highways.¹ Los Angeles and twelve other southern California cities participate in the Metropolitan Water District of Southern California to bring water nearly three hundred miles from Boulder Dam.²

The great advantage of the special district is its expediency. Politicians are seldom averse to the creation of new governmental agencies which will provide more jobs for the faithful. The special district also provides a way of meeting a particular problem without disturbing the entire existing setup. It is therefore a line of low resistance. Where state lines stand in the way of the solution of the metropolitan problem the special district is about the only practical solution beyond informal cooperation which is available. The New York Port Authority, created by a compact between New York and New Jersey with the approval of Congress, is the classical example of such an interstate arrangement. As long as metropolitan problems remain so few that they can be singled out for individual treatment, the special district has its merits.

The use of the special district also has certain drawbacks. The units of local government are increased rather than decreased in number. The result is greater complexity and probably increased cost. Furthermore, a multiplication of special districts makes coordinated planning difficult if not impossible. The special district can perhaps best be viewed as a temporary transitional measure for handling individual metropolitan problems until a more satisfactory over-all government can be secured. In one sense the special district may be regarded as a piecemeal or fragmentary approach to metropolitan federalism, and in some cases it has actually moved in that direction to a limited extent. Thus the Metropolitan District of Boston, which was organized in 1919, consolidated separate sewer, water, and park districts into one district, which has since also assumed certain planning functions. On the other hand, many special districts may never develop along these lines. Indeed, one of the objections to resorting to such

¹ Laurence Michelmore, "Detroit: A Tale of Two Cities," *National Municipal Review*, 29: 721, 814, 1940.

² Reed, *loc. cit.*, p. 407.

expediciencies as the special district is that they often create vested interests which make further changes difficult if not impossible.

Expansion of County Powers. One possible solution to the problem of governmental integration in the metropolitan regions which is receiving increasing attention is that of extending the authority of the county to take over more and more functions for the units of government within its boundaries. This is essentially a gradual approach to city-county consolidation and it is sometimes described as a type of functional consolidation. The expansion of county powers has several definite advantages, largely of expediency. It utilizes an existing agency of government and therefore does not call for any radical reorganization of governmental areas. The desires of the suburbanites for local self-government and for the protection of their vested interests are therefore not violated, at least not obviously and suddenly. Furthermore, most state legislatures, dominated by rural representatives, should be less opposed to increasing the powers of the county than to creating some super-metropolitan government, provided a distinction is made in the legislation between rural and urban counties. Another advantage is that transfers of powers do not have to run the gauntlet of popular referendum. Finally, this type of solution offers a suitable solution to the needs of the unincorporated but heavily populated sections in the region which otherwise would have to do without adequate governmental facilities or would be tempted to seek incorporation as separate municipalities. By increasing the powers of the county it is thus possible to head off an increase in the number of governmental units within the county.

One serious limitation to this plan is that in certain areas, especially the large ones, the central county does not contain all of the metropolitan region. The outlying districts of these metropolitan regions would therefore remain uncoordinated with the central city. Since the region of rapid development in these peripheral areas is the region where over-all planning can do the most good, this would be a real limitation. In many metropolitan regions, however, the county is a very suitable area for over-all control.

Because the county form of government in the United States was designed basically to deal with the relatively simple functions of rural government, it will have to undergo considerable reorganiza-

tion before it can serve as an instrument for metropolitan government. The changes needed fall into two categories: First, the structure of county government will have to be changed. In most states the counties are governed by a board of supervisors or a so-called county court of three or more members. There is no clearly defined line drawn between the executive and the policy-making or legislative functions, and there is no single-headed, responsible executive branch. What is needed, therefore, is provision for a county council, which will be the legislature or policy-making branch, and for a county president or county manager to head the executive branch. Second, the county government will have to be given adequate authority to deal with urban problems. This would include power to zone, to create or enfranchise public utilities, to establish fire departments, and to provide other facilities of urban government.

Progress is already being made in modernizing county government and in making it a suitable agency of metropolitan government. Los Angeles County, which includes almost the entire metropolitan region of Los Angeles, has a county manager and an annual budget of \$80,000,000. Some units of government in the county already possess legal authority to transfer functions, and the county has authority to accept them. It is understandable, therefore, why a special Committee on Governmental Simplification and other authorities have recommended that the county government of Los Angeles be made the instrument for meeting the problems of government of the Los Angeles region.¹ In the Detroit area a trend toward expansion of county government has been noted. Township roads and some of the more important municipal streets have been transferred to the county or the state; welfare administration has been put on a county basis; Wayne County (in which Detroit lies) now has authority to develop and operate water supply and sewage disposal facilities, and certain other services such as parks and libraries. With 90 per cent of the population of the Detroit metropolitan region within Wayne County, it can be seen that this trend has significance for the metropolitan problem. Wayne County stands in need of a modernized government, however, and defeat of county home-rule amend-

¹ John McDiarmid, "Los Angeles Attacks Metropolitan Problem," *National Municipal Review*, 29: 460-461, 1940.

ments to the state constitution in 1934 and 1936 indicates that not all is smooth sailing.¹

Several states, including California in 1911, Maryland in 1915, and Ohio and Texas in 1933, have provided by their constitutions for home rule for counties within their jurisdictions.² In New York the legislature has offered such broad optional forms of government to its counties that it is sometimes said to have county home rule.³ This makes possible the creation of a county government with enough authority to deal with the urban problems which may face it. Only in California have counties (now some seven) actually received the grant of home-rule powers, although three New York counties are also operating under their optional forms.

Extraterritorial Powers. Another partial treatment of the metropolitan problem of unification is the granting of power by state legislatures to municipalities to deal with certain problems outside their boundaries. For example, a city may be granted authority to extend its sewer system into adjoining areas, to extend its transportation systems, to secure outlying parks or water supplies. Sometimes the city may exercise power outside its boundaries without authorization. Milk inspectors of Chicago, for example, have been reported to operate widely outside the city limits in order to check up on the conditions of the sources of Chicago's milk supply.⁴ California has gone far in granting extraterritorial powers to its cities; and in Texas, cities above 25,000 in population review, with power to disapprove, all plans for proposed residential subdivisions within 5 miles of their limits.⁵ "Nearly half the states have granted extraterritorial jurisdiction to cities over land use development since 1913."⁶

The advantage of the use of extraterritorial powers by cities, like that of special districts, is largely one of expediency. Particular problems, such as those of transportation, sewers, and water supply, can be solved tolerably well when only the immediately adjacent municipalities are involved. No new boards have to be set up; use is made of the existing central city government.

¹ Michelsmore, *loc. cit.*, pp. 722-723.

² Wells, *op. cit.*, p. 121, and Studenski *et al.*, *op. cit.*, p. 216, name Louisiana and Montana as also possessing the constitutional authority to grant home rule to counties.

³ Wells, *op. cit.*, p. 121.

⁴ *Ibid.*, p. 98.

⁵ Kneier, *op. cit.*, Chap. 9, cited in Lepawsky, *op. cit.*, p. 34.

⁶ Lepawsky, *op. cit.*, p. 34.

The great disadvantage of extraterritorial powers is that, if multiplied, they create an uncertain and complex system. One student of the use of these powers in California, writes:

Inevitably . . . the development of such powers in any extensive fashion must lead to additional confusion in the already tangled web of jurisdiction. The problems of relationships of governmental units are simply multiplied.¹

Cooperation. A final and extremely important method of coping with the problem of integrating the government of metropolitan regions is that of informal cooperation. Municipal officials have developed a practical, commonsense method of meeting many metropolitan problems through the simple expedient of voluntary cooperation. Sometimes this cooperation has been extremely informal. Fire chiefs, for example, simply agree among themselves to come to the aid of one another under certain conditions when one of the chiefs requests it. If the engines of one municipality are busy fighting a fire in one place and another fire breaks out demanding their use, the local fire chief may call a neighboring chief to send his engines there. Informal agreements for cooperation among fire fighters have been reported from southern Illinois,² Massachusetts, New York, Kentucky, and Wisconsin. A recent survey in Michigan shows that 179, or 72 per cent, of 250 municipalities in the state render fire protection to outside areas; some 47 do it on a contract basis. Ohio in 1935 passed legislation permitting counties and townships to enter into contract with any city, county, village, or township for the use of its fire department upon mutually agreeable terms and upon the basis of a stipulated price for each call or run.³

In the field of police administration voluntary cooperation among the municipalities of a metropolitan region is not uncommon. At least fifty-four cities of over 50,000 in population serve outlying areas in the use of police radios. Chicago, Los Angeles, Cleveland, Cincinnati, Louisville, and Toledo are among these. Chicago alone serves over fifty suburban towns and villages.⁴ Sale of water by

¹ Winston W. Crouch, "Extraterritorial Powers of Cities as Factors in California Metropolitan Government," *The American Political Science Review*, 31: 286-291, 1937.

² The famous Egyptian Fire Fighters' Association, organized in 1925, covers some 12,000 square miles for sixty communities. Norman N. Gill, "Intergovernmental Arrangements," *The Municipal Year Book, 1936*, Chicago, 1936, pp. 142-143.

³ *Ibid.*

⁴ *Ibid.*

central cities is also a common occurrence. Chicago sells to over thirty suburbs; Detroit sells to twenty or more municipalities and townships; and New York, Cleveland, Baltimore, Cincinnati, and Portland perform similar services. A dozen cities of 30,000 population likewise serve as sources of water for neighboring areas.¹ Cooperation has also been reported in such matters as the construction and maintenance of sewers, purchasing, planning, tax assessment and collection, health administration, and the provision of library facilities.²

Although largely unknown to the average citizen, the many types of voluntary cooperation, ranging from very informal agreements among officials to more formal contractual arrangements among municipal corporations, have been doing much to ease the problem of integration in metropolitan regions. Perhaps one reason why the average citizen is not particularly aware of the metropolitan problem is that these schemes of voluntary cooperation have been rather effective. Leagues of municipalities and various regional or metropolitan planning associations — the latter quite often private as well as voluntary — have done much practical good in the past, and it is conceivable that they and informal voluntary cooperation will continue to offer a suitable means for easing the metropolitan regions over some of their most difficult problems.

CONCLUSION

Because of the obstacles which impede political reform for the metropolitan areas, future developments will probably follow along the lines of the moderate solutions which have been discussed. It should be pointed out that no single approach to the metropolitan problem need be followed, but that several types of solutions may be used simultaneously in any particular metropolitan region. While the existing problems of the metropolitan region are being struggled with, it is well to expect that these problems will change in form and content even as solutions are being sought. Furthermore, each region has to seek those solutions which fit its own peculiar needs, political background, legal framework, physical

¹ The famous Egyptian Fire Fighters' Association, organized in 1925, covers some 12,000 square miles for sixty communities. Norman N. Gill, "Intergovernmental Arrangements," *The Municipal Year Book*, 1936, Chicago, 1936, pp. 142-143.

² *Ibid.*

layout, history, and traditions. Gradual change, through a combination of remedies, will probably be the prescription which most regions will find acceptable. Under democratic institutions, politics, in metropolitan regions as elsewhere, remains the art of achieving the possible.

TERMS TO BE UNDERSTOOD

metropolitan region	metropolitan federation
political integration	special district
annexation	<i>ad hoc</i> district
consolidation	extraterritorial
county home rule	

QUESTIONS FOR DISCUSSION

1. By what standards do you think the boundaries of metropolitan regions should be defined? Apply your standards to the definition of the metropolitan region with which you are most familiar.
2. Why can it be said that the population trend from the central city to the suburbs creates a social problem for the central city? Are there any compensating advantages for the central city?
3. Discuss the problem of providing water and sewer systems for the metropolitan region.
4. How does the existence of many political units in metropolitan regions aggravate the fiscal problems of the regions?
5. Although the suburbs may view the problems of the central city with indifference, do you think their attitude is a farsighted one? Discuss.
6. What are the legal obstacles to solving the problem of government in metropolitan regions?
7. What vested interests impede the integration or unification of metropolitan governments?
8. Which of the possible solutions to the metropolitan problem mentioned in this chapter emphasize efficiency and economy more than local self-government? Where do you believe the emphasis should be placed?
9. Which of the possible solutions to the problem of the metropolitan district nearest you do you favor? Give your reasons.
10. What light has the study of the problem of government of metropolitan regions shed upon the strategy of political reform in a democracy?

FOR FURTHER STUDY

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CHAPTER XXXVII

LEGISLATION

LAW IN OUR SOCIETY

Necessity for Laws. The reign of law is one of the necessities of modern social life. Without it chaos would characterize human relationships. Only through law can there be order, justice, and the maintenance of the common weal. In primitive society, in which social relationships are relatively simple and static, the counterpart of the law is found in a body of customs. The problems of human relations in such a society can be met largely by folkways and mores. Under modern conditions, however, reliance upon custom for the regulation of social relations would prove utterly inadequate, for the social order is increasingly dynamic and complex. Customs are effective in regulating a society only when its members share a common heritage and are confronted relatively infrequently with new conditions. Modern societies are made up of heterogeneous elements and face the necessity of making relatively quick adjustments to rapid changes in societal concerns. To effect adequate regulation of our public life we are compelled increasingly to rely upon the enactment of formal rules. Undoubtedly a significant characteristic of our present-day social life is the mounting multiplicity of written laws that are necessary for the maintenance and promotion of the general welfare.

Hierarchy of Laws. We Americans live under a hierarchy of written laws. Of primary importance is our constitutional law, which is found in the Constitution of the United States, the constitutions of our forty-eight commonwealths, and the charters of our many municipalities. These control the whole process of lawmaking. They not only establish the general framework of the respective governments in which the enactment of laws and ordinances takes place, but also fix the organization for legislation, establish certain procedures for legislative action, and set bounds to the powers of lawmaking bodies. The provisions of constitutions and

charters constitute what may appropriately be termed "super-legislation."

At the second level of legislation in the United States come the ordinary enactments of Congress, state legislatures, and municipal councils. Out of these legislative bodies pours a flood of laws covering a multitude of subjects, each designed to safeguard or promote a public interest.

On the third level we have the rules and regulations which the president, governors of states, the mayors of cities, and their respective agencies of administration are empowered to make. Such rules and regulations may well be called "sublegislation."¹ Executives and their administrative agencies in each jurisdiction of American government have under modern conditions been compelled to exercise an ever larger part in the making of rules and regulations.

In the United States today the regulations issued and the decisions made by administrative authorities are so numerous, so weighty, and so far-reaching that the daily life of every individual citizen is affected by them.²

Although there are in the United States three general levels of rulemaking in our governmental process, we are concerned here only with the second level, that is, with the lawmaking of Congress, state legislatures, and city councils. Such legislation constitutes one of the three fundamental aspects of governmental activity. (The other two are the executive and judicial functions.)

Importance of Lawmaking in a Democracy. The importance of lawmaking and lawmakers in American government can scarcely be exaggerated. The utilization of lawmaking bodies is a fundamental characteristic of democratic government. Moreover, the representative assembly is "the one organ of government which literally exemplifies the principles and ideas of democracy."³ All governments have executive and judicial officials, but only in democratic governments are found lawmaking bodies empowered

¹ Many judicial determinations also come in this category. Besides these three levels of legislation Americans live under the Common Law developed in England. It was adopted by early Americans and is still a part of the law of each of our forty-eight states, save Louisiana. State legislatures can and have modified the rules of the Common Law.

² Frederick F. Blachly and Miriam E. Oatman, *Administrative Legislation and Adjudication*, the Brookings Institution, Washington, D. C., 1934, p. 1.

³ Chester C. Maxey, *The American Problem of Government*, third edition, F. S. Crofts & Co., New York, 1939, p. 179.

to effect the will of the people. Upon these legislative bodies are focused the multiple and varied demands of the electorate. The determination of public policies, always the function of legislative bodies in democratic government, has been of salient importance in our political system. Today this power, owing to the great complexity of our industrial society and the rapidity of change in our social order, is of unprecedentedly vital significance.

The subject of legislation in the United States, even when limited as in this chapter to one level of lawmaking, that of the ordinary enactments of legislative bodies, is one of such breadth and complexity that any comprehensive presentation would require a volume. However, the essential features may be surveyed under six subtopics: (1) general framework of legislation, (2) powers of law-making bodies, (3) organization of legislative bodies, (4) procedure in lawmaking, (5) the politics of the legislative process, and (6) the improvement of legislation.

GENERAL FRAMEWORK OF LEGISLATION

Bicameralism. The most striking feature of the structural design of American legislation is the prevalence of bicameralism, that is, the use of two-chambered legislatures. In the case of Congress the adoption of this system was the product of historical precedents, the sway of the idea of having one house check the other, and most of all the imperative necessity of reconciling the demand of states with small populations for equal representation in the national legislature, with the demand of commonwealths with large populations for representation proportional to the number of the inhabitants.

Bicameralism was never so imperative in state and local government as it was in the case of Congress, but the idea of one house serving as a check upon the other has undoubtedly been the central force in the extension of this system in state governments. The merits and defects of this system have been argued at length in every generation of American life. Although the detailed arguments cannot be stated here, a few significant arguments may be presented.

The case for bicameralism rests on the desirability of having one house check the other. There is much evidence to prove that this does not always happen. Furthermore, it is often pointed

out that when the check does operate meritorious bills as well as objectionable proposals are killed. That bicameralism makes possible the shirking of responsibility, "buck-passing" between the members of the houses, has been repeatedly emphasized. Proponents of unicameralism (one house) stress these arguments especially: a one-house system would fix responsibility, greatly expedite the enactment of laws, and materially reduce the state's expense in the maintenance of its legislature. Only one of our states has abandoned bicameralism: Nebraska in 1937 established a unicameral legislature.¹

In the nineteenth century most of our larger cities, imitating the bicameralism of the states, established two-chambered councils. Experience proved, however, that the defects of this system far outweighed its merits. "The unicameral council is today generally accepted as superior to the bicameral plan in city government. . . . Today the use of the single-chambered council has become almost universal."²

Legislative Sessions. Our lawmakers both in Congress and in state legislatures are under regulation as to the frequency with which they convene. Congress, since the ratification in 1933 of the Twentieth Amendment, often called the "Lame Duck Amendment," is required to convene each year, beginning on the third day of January. Its maximum session is therefore one year, during which it may adjourn at any time. While one state legislature (Alabama) meets in quadrennial session, and four (New Jersey, New York, Rhode Island, and South Carolina) meet annually, the other forty-three states require their legislatures to meet biennially.

About thirty-six of our states limit the length of the legislative session. While this period varies widely, from forty days to five months, in almost half of the commonwealths the legislature may sit for sixty days or thereabouts. In a few states, however, although no absolute limit is set, a protracted session is discouraged by various means. One method, for example, is a constitutional provision which stipulates that after a certain period the legislators will receive a reduced compensation or no pay at all. City councils convene

¹ In 1935, the year after the Nebraska electorate voted to establish a one-house lawmaking body, a bill for a unicameral legislature was introduced in sixteen states. In 1937 a proposal of this sort was presented in twenty-three legislatures.

² Charles M. Kneier, *City Governments in the United States*, Harper & Brothers, New York, 1934, p. 326.

whenever there is need for municipal legislation. Their regular sessions occur commonly each week or bimonthly.

Size of Legislative Bodies. The Congress of the United States now (1941) has 531 members: 96 in the Senate and 435 in the House of Representatives. In response to a growing population Congress repeatedly changed the number of inhabitants entitled to one Representative. In 1793 it was about 33,000 and in 1930 about 280,000.¹ In 1929 Congress decided that the membership of the House of Representatives should never be larger than 435, and in that year enacted a statute which established this as the maximum number. The membership of our state legislatures varies. In 1937 the range in the upper houses was from 17 to 67 — from 30 to 50 in most of them. In the same year the size of the lower houses varied from 35 to 419 — in most states from 100 to 150. The membership of city councils varies widely — from 71 in New York City down to 3 in our smallest municipalities. The number of councilmen, however, bears no close relation to the size of cities, for some large cities have fewer councilmen than do other municipalities with much smaller populations. The general tendency, however, has been to reduce the size of city councils.

Tenure of Legislators. The range in term of office is from one to six years. As is well known, United States Senators have a six-year term, while members of the House of Representatives in Congress serve for two years. Four years is the term of office for members of the upper house of thirty-six of our state legislatures. In the other eleven commonwealths the term is two years.² The range of terms in the lower house of state legislatures is from one to four years. In forty-three states the tenure is two years. While in small cities councilmen commonly serve for one year, in larger municipalities the tenure is either two or four years. American lawmakers are frequently reelected time after time.

Qualifications of Legislators. The qualifications for members of our legislative bodies are of three types: legal, customary, and practical. The legal requirements are set forth in the Constitution of the United States, state constitutions, and city charters. Age,

¹ The Constitution in this matter merely declares: "The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative." (Article I, Section 2, Clause 3.)

² Members of Nebraska's one-house legislature serve a term of two years.

citizenship, and residence are emphasized. The range of minimum age requirements is from 21 to 30 years: 30 for United States Senators, 25 for members of the lower house of Congress, 21 to 30 for state legislators. All our lawmakers must be citizens. For members of Congress a minimum period of citizenship is prescribed in the Constitution: nine years for Senators and seven for Representatives. A residence requirement is stipulated for all national and state lawmakers. Members of Congress must live in the state from which they are elected. Each state requires its lawmakers to reside in their respective districts. The required period of residence for state legislators varies from one to seven years. Members of city councils "may be required to have nominal qualifications as to age, residence, and citizenship by state law or by the city charter. . . ." ¹ Only rarely is an aspirant to legislative office impeded by the legal qualifications prescribed, "for any person with the slightest chance of election would in most cases have exceeded them." ²

By far the most notable example of a qualification established by custom is seen in the case of United States Representatives who, in addition to being residents of the state, are required to be residents of their respective congressional districts. This development is a good illustration of the power of localism in our political life. In England constituencies frequently elect representatives for parliament whose residence is far removed from the district which is to be represented.

The practical qualifications of American lawmakers are those which make them desirable in the eyes of the electorate and of the political party leaders. The qualities upon which voters try to concentrate are character, intelligence, and experience. To the political party the paramount qualification is ability to corral votes. It always asks, "Can he win?"

Selection of Lawmakers. The selection of lawmakers is a matter of vital importance. There can be no government by and for the people unless the electorate has command of its legislators. The most effective means of control is popular election. American

¹ Harold Zink, *Government of Cities in the United States*, The Macmillan Company, New York, 1939, p. 279.

² Jeremiah S. Young, John W. Manning, and Joseph I. Arnold, *Government of the American People*, D. C. Heath and Company, Boston, 1940, p. 246.

political history reveals a significant development in the matter of selecting lawmakers. In the early decades, owing to restrictions upon the privilege of suffrage, relatively few citizens could vote for their legislators. Some lawmakers until relatively recently were not chosen directly by even a restricted electorate. For example, United States Senators, until the advent of the Seventeenth Amendment in 1913, were chosen by their respective state legislatures. In the course of the last hundred years, however, the selection of lawmakers has been democratized. The suffrage has been widely extended and all members of legislative bodies, from councilmen in our cities to Senators in Congress, obtain office by popular vote.

If American government is to be truly democratic the process of nominating legislative candidates is second in importance only to the general election itself. Indeed, in districts and states in which one political party is definitely dominant, the nominating process is much more important than the general election. The method of nomination employed for legislative candidates has undergone a significant evolution in the United States. At first the electorate had no control over the selection of such candidates. They were nominated by a legislative caucus, that is, the party members who were holding office in the respective lawmaking bodies at the time. With the advance of democracy, however, this procedure was abandoned in favor of a system which afforded the electorate an indirect control over nominations. "The most common criticism of the legislative caucus was that it amounted to the usurpation by a few office-holders of the power to control party action and machinery."¹

The system of nomination which supplanted the caucus scheme was the convention plan which "was hailed at once as a material advance in democratic methods over its predecessor."² . . . It was based upon the principle of representation or delegated authority."³ The central feature of this plan was the operation of a hierarchy of conventions, local, county, district, and state. The basic element of this scheme was a local primary assembly of party members. Here party delegates met in a county convention to choose delegates for state legislative and senatorial district conventions. The

¹ Harold R. Bruce, *American Parties and Politics*, 3rd ed., Henry Holt and Company, Inc., New York, 1936, p. 280.

² *Ibid.*, p. 281.

³ *Ibid.*, p. 286.

convention system steadily degenerated and fell into disrepute. Increasingly the electorate became convinced that their influence in the conventions was frequently and largely nullified by virtue of the manipulation and domination of the conventions by bosses. Accordingly the electorate demanded and established a new system of nomination — the direct primary.

At the close of the nineteenth century, after almost universal use in the United States for about seventy-five years, the convention system was superseded by the direct primary plan which is now utilized in forty-three of our forty-eight states. Under this system a primary election, conducted in the same manner as a regular general election, is held. In such elections each voter is afforded an opportunity to cast a ballot for the candidates whom he wishes to appear on the ballot in the general election. Today almost all aspirants for legislative office must look to the electorate for their nomination, and all successful candidates are dependent upon their respective constituencies for opportunities to sit in legislative bodies.¹

Legislative Representation. The early plan for legislative representation was designed primarily to afford representation for certain economic and social classes, but it was pushed aside as the tide of democracy advanced. "The democratic doctrine was that all men were equal and should be equally represented. This gave birth to what might be termed the 'nose-counting' basis of representation."² Although the idea of representation in proportion to population has been generally followed, this principle has never triumphed completely, for local pride and devotion to historic entities has not been entirely eliminated. States and local communities of small population insisted and still demand that they be "represented as political entities regardless of population."³ The principle of representation in proportion to population is applied much more fully in our cities than in either the states or the nation.⁴ Whether the basic plan of representation is followed or not

¹ See Chap. XXXII on Political Parties for a discussion of party influence in the primary.

² Maxey, *op. cit.*, p. 188.

³ *Ibid.*

⁴ An excellent exposition of the American system of representation is found in A. N. Christensen and E. M. Kirkpatrick, eds., *The People, Politics, and the Politician*, Henry Holt and Company, Inc., New York, 1941, pp. 403-411.

in any particular case, every American legislator represents some territorial area.

A Senator of the United States represents his whole state.¹ A member of the House of Representatives in Congress is the legislator for a congressional district — an electoral subdivision of his state. When a state is entitled to a congressman or congressmen for whom there is or are no district or districts, each such legislator is called a “congressman-at-large” and represents the whole state. In the 76th Congress which convened in January of 1939 there were six states with congressmen-at-large. The total number of such legislators was ten, no state having more than two lawmakers in this category. Six members of the lower house of Congress represent a whole state, for six states (Arizona, Delaware, Nevada, New Mexico, Vermont, Wyoming) are entitled to but one representative each. In the forty-two states which have congressional districts the number of such districts ranges from two to forty-three.

For purposes of representation in state legislatures each commonwealth, except Nebraska, is divided into two kinds of districts: one for the upper house and another for the lower house, the former being considerably larger than the latter. Cities are divided into wards. A member of a city council in a majority of our municipalities represents a ward. Our cities manifest a tendency to adopt a system in which councilmen are elected at large. When elected at large a councilman represents the whole city. In over a third of our municipalities which have a mayor-council plan councilmen are elected at large.

Having described the general framework of national, state, and municipal legislation in terms of bicameralism and unicameralism, sessions, size of legislative bodies, tenure and qualifications of lawmakers, method of selecting legislators, and our system of legislative representation, we may well next consider the scope of and limitations upon the powers of Congress, state legislatures, and city councils.

POWERS OF LAWMAKING BODIES

Separation of Powers. It is important to observe that our law-making bodies do not possess, in their respective jurisdictions, all legislative powers. Such powers are shared with the President, the

¹ While the two Senators of New York represent 12,588,066 people, the two Senators of Nevada represent 91,058 people. (Census of 1930.)

governors, and the mayors. Government in the United States has theoretically and in the popular mind been separated into three fundamental branches: executive, legislative, and judicial. The American people have always regarded this separation as one of the fundamental characteristics of their governmental system. How widely our practice is at variance with this idea is commonly little appreciated.

Executive Power over Legislation. "In the United States the executive has a large share in the making of laws."¹ The Constitution of the United States itself gives the President important legislative power: to formulate the legislative program in his message at the opening of a Congressional session, to call special sessions of Congress, and to veto any bill of the national legislature.² In practice the President's power over legislation is constant and extensive. As the prestige of his office has mounted, the Chief Executive can and does, through his ability to influence members of Congress and to lead in the formulation of public opinion in the electorate, exert an enormous and ever increasing control over legislation. "It is not going too far to say that the President now constitutes an organ of legislation second in power and influence to Congress itself."³ The governors of states and the mayors of cities exercise within their respective jurisdictions a large influence over legislation.

Congressional Legislative Power. The legislative power of Congress is defined by the Constitution of the United States and interpreted by the Supreme Court of the national government. Congressional authority is limited to those powers enumerated in the Constitution and to those which may be implied from the "elastic clause."⁴ This clause declares that Congress shall have the power "To make all laws which shall be necessary and proper for carrying into execution the foregoing (enumerated) powers and all other powers vested by this Constitution in the Government of

¹ *Encyclopedia of the Social Sciences*, under "Legislative Assemblies," The Macmillan Company, New York, 1937.

² Although Congress can enact legislation over the President's veto when a two-thirds vote can be obtained, since 1889 it has been able to override less than 10 per cent of the presidential vetoes.

³ W. F. Willoughby, *Principles of Legislative Organization and Administration*, The Brookings Institution, Washington, D. C., 1934, p. 74. For an admirably comprehensive exposition of the topic of Separation of Powers see pp. 5-209.

⁴ While the first seventeen clauses of Section 8 of Article I set forth express powers which Congress may exercise, there are other powers expressly granted to the national legislature in other sections of the Constitution. Three examples may be cited: (1) Each

the United States, or in any department or officer thereof.”¹ An excellent example of the extension of the scope of Congressional power which may accrue from one enumerated power is seen in the following case. The Constitution declares that Congress shall have power “to regulate commerce with foreign nations and among the several states.” Acting under the implied power of this provision, Congress regulates such interstate activities as transportation of freight and passengers on land, on water, and in the air; communications — telegraph, telephone, and radio; and the transmission of electricity.

The scope of Congressional authority has been enormously expanded by virtue of the great liberality of judicial interpretation. The disposition of the Supreme Court to interpret generously the acts of Congress began in the early decades of the last century when John Marshall was the Chief Justice of our highest tribunal. This tendency has continued throughout our national history. The importance of this liberal view of the judiciary can scarcely be exaggerated. It enabled Congress to cope with a multitude of public problems. Had the judiciary taken and maintained a narrow view of the implied powers of Congress, undoubtedly the extension of Congressional regulation over a rapidly expanding national economy produced by our remarkable industrialization would have been seriously handicapped.

Contrary to the popular idea, it is not essential for Congress to trace authority when acting under implied power to a specifically enumerated power in the Constitution. The Supreme Court has held “that it is not necessary for Congress to trace back every one of its powers to some single grant of authority, direct or implied, but that authority may be deduced from more than one of the specific powers or from some or all of them combined.”² This decision in itself constitutes an excellent example of the liberality of

house of Congress is empowered to be the judge of the qualifications of its own members (Article I, Section 5). Several times this power has been exercised, with the result that members were declared unqualified and as a consequence were refused seats in the national lawmaking body. (2) Each house is authorized to expel any member when such action seems necessary (Article I, Section 5). (3) Article I, Section 2, gives the House the “sole power of impeachment” and Section 3 of this Article grants the Senate the authority “to try all impeachments.”

¹ Article I, Section 8, Clause 18.

² Frederic A. Ogg and P. Orman Ray, *Introduction to American Government*, 6th ed., D. Appleton-Century Company, Inc., New York, 1938, p. 462. Here the case of *Cohens v. Virginia*, 6 Wheaton 264 (1821) is cited in support of this statement.

the Supreme Court in its interpretation of Congressional authority.

The Constitution of the United States contains a number of legislative "thou shalt nots" of which members of Congress must always be mindful. These are found chiefly in Article I, Section 9, and in the First Amendment. In Section 9, for example, Congress is forbidden to pass a bill of attainder or ex post facto law, tax any article exported from a state, give any preference to ports of one state over those of another, or grant any title of nobility. The First Amendment denies to Congress the power to establish any religion, interfere with the free exercise of religion, abridge freedom of speech and of the press, withhold the right to assemble peacefully, or petition the government for a redress of grievances. A further limitation upon the power of Congress, not found in the Constitution, is the authority of the Supreme Court to invalidate any enactment which contravenes the Constitution.¹

Power of State Legislatures. In each state "the legislature possesses all legislative power not granted elsewhere or prohibited to the states by the national constitution, and not expressly or impliedly withheld by the state constitution. . . ." ² Although the scope of legislative authority in our commonwealths has been constantly curtailed through the insertion of more and more restrictions in state constitutions, nevertheless state legislatures may still enact laws on a wide range of subjects. They possess a more extensive police power, that is, authority to act for the protection of public health, safety, morals, convenience, and general welfare, than either Congress or city councils.

Although authorized to enact legislation in a wide field, a state legislature must heed the prohibitions on state power as found in the Constitution of the United States, chiefly in Article I, Section 10.³ Three amendments to the Constitution curtail state power. A state is forbidden to deny suffrage on account of race in the

¹ The decisions declaring unconstitutional the NIRA and the AAA of 1936 are recent examples of the exercise of this power by the Supreme Court.

² Frederic A. Ogg and P. Orman Ray, *Introduction to American Government*, 6th ed., D. Appleton-Century Company, Inc., New York, 1938, p. 462. Here the case of *Cohens v. Virginia*, 6 Wheaton 264 (1821) is cited in support of this statement, p. 680.

³ Here, among other proscriptions, states are prohibited from having relations with foreign nations, coining money, emitting bills of credit, impairing the obligation of contracts, and from passing any bill of attainder or ex post facto law. In this section too are set forth a number of things which a state may do only with Congressional consent, notable among which is the forming of any agreement or compact with another state.

Fifteenth Amendment, and on a basis of sex in the Nineteenth Amendment. The Fourteenth Amendment contains tremendously significant restraints on state power. It declares in part:

No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

The Supreme Court of the United States in a number of cases invalidated state legislation on the ground that it violated some provision of the Fourteenth Amendment. The chief tribunal of this nation, when appealed to for a decision, declares any act of any legislature invalid if it believes that the enactment is contrary to the Constitution of the United States, any law of Congress, or any treaty of the national government, for these three are "the supreme law of the land."¹

Besides taking cognizance of the federal Constitution a state legislature in enacting statutes must observe the many restrictions upon its authority as set forth in the constitution of that commonwealth. The supreme tribunal of a state will invalidate any enactment of the legislature which it considers to be in contravention of the state constitution. The courts, federal and state, may render laws null and void after their enactment. But a state's lawmakers may be checked in the process of passing legislation, for the governor can veto any enactment which to him seems unwise or inexpedient. And his veto cannot easily be overridden.

Authority of City Councils. The scope of authority of a city council is determined fundamentally by the fact that the city in the United States "remains the creature of the state exercising and holding powers and privileges subject to the sovereign will . . ." of the commonwealth in which it is located.² The power of city councils is somewhat augmented by this judicial interpretation: any power possessed by a city which has not been specifically conferred upon any other part of the municipal government shall be exercised by the council. In cities with the mayor-council type of government, the increased use of the initiative and referendum, and the great enlargement of specific powers granted to administrative agencies, have effected a marked diminution of the authority of

¹ See Constitution of the United States, Article VI, Section 2.

² Kneier, *op. cit.*, p. 42.

the council. The basic determinants of any council's power are the constitution of the state, the statutes of the legislature, the city charter, and the type of municipal government in which it functions. Since the provisions having to do with legislative authority as found in these determinants vary widely, the powers exercised by city councils differ greatly.

Councils, in general, exercise rather wide legislative authority and enact many regulations for the maintenance of the general welfare. Paradoxical as it may seem, despite the wide range of subjects with which city councils ordinarily deal, they really operate under many limitations, for the courts will declare invalid any action of any council which contravenes the provisions of the city charter, any statute of the state legislature, any law of Congress, and any provision of either the state or the federal constitutions.

Having surveyed the general framework of American legislation, the powers and limitations of the authority of Congress, state legislatures, and municipal councils, we may turn to a consideration of the organization of legislative bodies in the United States.

ORGANIZATION OF LEGISLATIVE BODIES

Basic Factors. The efficiency of legislative bodies is largely dependent upon the adequacy of their organizational arrangements. The central problem is, on the one hand, to maintain effective control over the members of a lawmaking body, and, on the other hand, to afford an adequate sphere of independence for the individual legislator — an exceedingly difficult task. While the federal Constitution, state constitutions, and city charters contain provisions regarding internal legislative organization, our lawmaking bodies are largely free to construct within themselves whatever operative framework they desire. Among the many interesting and significant features of the internal structure of our legislative bodies, two stand out saliently: the dominance of political party considerations and the great reliance on a committee system. But before we observe these two important aspects we may consider the matter of presiding officers.

Presiding Officers. The presiding officer of every legislative body in the United States is prescribed by law. The president of the Senate in Congress is the Vice-President of the United States who, as is well known, is elected by the voters of the nation. He is

merely a moderator and has no vote unless there be a tie. The Senate elects one of its members to serve as president *pro tempore*. He is the presiding officer in the absence of the Vice-President or when there is no such official, as occurs when the Vice-President becomes the chief executive through the death of the President during his term of office.

The officer who presides over the House in Congress is the Speaker.¹ He is really selected by the caucus of the party in power, but nominally by the House. The Speaker is always a potent influence in this body. Before 1910 the Speaker was extremely influential in the organization of the House, for "he had wide powers in the appointment of committees."² In 1910 and 1911, however, his powers were very considerably curtailed. But he was "by no means reduced to insignificance. Among the important powers he still enjoys, we may mention his power to decide questions of order and to recognize (or not recognize) members" who seek the floor.³

In a vast majority of our state legislatures the presiding officer of the upper house is the lieutenant governor, who is elected by the voters of the state. In most states he has no vote unless there be a tie. While his function may rather loosely be compared to that of the speaker in the lower house, he does not in most commonwealths possess the power "to appoint committees or to control the committee on rules."⁴ A president *pro tempore* is selected by the majority party to preside when the lieutenant governor is absent. This president *pro tempore* is ordinarily the chief figure in the body, for he "exercises at all times the important powers which fall to the speaker in the lower house."⁵

The presiding officer in the lower house of our state legislatures is the speaker. Theoretically, just as in the lower house of Congress, the speaker "is chosen by the members, but actually by the caucus of the majority party."⁶ His powers vary among the states but in

¹ Each House of Congress, through the caucus of the majority party, selects several officers, among whom are the clerk, chaplain, doorkeeper, postmaster, and sergeant-at-arms. Of these the clerk is by far the most important official.

² Claudius O. Johnson, *Government in the United States*, The Thomas Y. Crowell Company, New York, 1933, p. 307.

³ *Ibid.*, pp. 307, 308.

⁴ *Ibid.*, p. 362.

⁵ Johnson, *op. cit.*, p. 362.

⁶ *Ibid.*, p. 361.

all he is an important factor in legislation and plays a prominent role in the organization of the house through his power to appoint committees.¹

The councils of our municipalities are presided over by the mayor. His influence in the council varies widely. It depends primarily on the provisions of the particular city charter, but his ability, his interpretation of his office, and political conditions are also material factors.

Party Influence in Internal Organization. The preponderance of political party interests in the organization effected in legislative halls is an outstanding characteristic of American lawmaking. "The importance of having leadership in legislative bodies cannot be emphasized too much."² Without leadership the successful functioning of our lawmaking bodies would be absolutely impossible. This essential leadership is supplied by the political party in power, and is made effective through its organization of the particular body. This partisan organization is much the same on every level of our government. "It is more fully developed in Congress, particularly in the House of Representatives, but it exists and functions also in the United States Senate, in state legislatures, and in city councils. . . ."³

Here we shall observe only the party organization of the House in Congress. The party organization effected by the Senate of the United States is not fundamentally different from that of the House. Although party interests are prominent in the organization of a house in a state legislature, when the body proceeds with its work of lawmaking, "party lines are broken much more frequently and completely than in Congress."⁴ Furthermore, party direction of the organization and work of city councils is much less positive and constant than in state legislatures.

Legislative Caucus. The fountainhead of party organization is the caucus which is composed of the members of a party who are in good standing. Each party has a caucus meeting for organizational purposes before each session of Congress opens, with such subsequent meetings as party interests and concerns dictate. It

¹ The caucus of the majority party of each house of a state legislature selects a clerk, chaplain, postmaster, doorkeeper, and sergeant-at-arms.

² William Anderson, *American Government*, Henry Holt and Company, Inc., New York, 1938, p. 529.

³ Anderson, *op. cit.*, p. 535.

⁴ Johnson, *op. cit.*, p. 363.

would be difficult indeed to overestimate the power and far-reaching influence of these caucuses which determine "very largely both the organization and work of the House of Representatives."¹ Among their significant activities are these: nomination of officers as required by law, selection of various party officers who are responsible for the promotion of party interests in the House, preparation of a slate of appointments for the House's standing committees, and the formulation of the party's legislative program for the prospective session. Any caucus decision, whether reached before or during a session, is "held to be binding upon all members of the party."²

Caucus Agencies. Following the opening of a Congressional session party discipline is effected continually by the majority caucus chiefly through its servants, the steering committee and the floor leader. The steering committee, which is selected by the caucus, is a powerful engine in effecting the party's control over the House. It is "entrusted with the responsibility of executing the caucus decision as to legislation and of exercising continuous supervision of the business of the house. . . ."³ One of its powers, for example, is that of selecting "for consideration a small percentage of the thousands of bills introduced every session."⁴

Next to the Speaker himself the most influential member of the House is the majority floor leader.⁵ He is selected by the caucus, and is the chairman of the powerful steering committee. His important function is to maintain party harmony and to block, insofar as possible, "any interference with the plans of the party's legislative program."⁶ He is a vigilant generalissimo. Always keeping a close ear to drifts in opinion, this floor leader keeps all party members "in line" and expedites the business before the House. On occasion he pleads, bargains, threatens, and argues with party members — in short applies any effective and legitimate pressure — to the end that an efficient organization may be maintained which will advance the party's interests.⁷

¹ *Ibid.*, p. 315.

² Bruce, *op. cit.*, p. 279. Decisions of the caucus are reached by majority vote.

³ *Ibid.*, p. 241.

⁴ Johnson, *op. cit.*, p. 311.

⁵ The minority party also has a floor leader.

⁶ Johnson, *op. cit.*, p. 310.

⁷ Each party in the House has a "whip." His function is to get straggling colleagues into the legislative hall when an important roll call is immediately in prospect.

Extralegality of Party Control. It is a striking fact that: the domination of party over organizational arrangements in our Congress and state legislatures is all of an extralegal character.

With infinite pains the men who framed our Constitution . . . devised with great cunning a clever system of checks and balances in order that the government might do no harm; but they left to haphazard arrangements, or to voluntary associations unknown to the law . . . the difficult task that was in itself the great problem of democracy. . . .¹ [To political parties] which soon arose, was left the task of furnishing a medium for transmitting the will of the people to the government.²

Legislative Committees. The second conspicuous characteristic of the internal organization of American lawmaking bodies is the wide and constant use of a system of committees. The utilization of committees in legislative halls is extremely advantageous. It saves a great amount of time. Indeed, if the host of bills which deluge each lawmaking body had to be considered by the whole assembly, the legislative process would soon become chaotic, for even with continuous sessions only a small percentage of the total number of bills introduced could be considered.³ The committee system increases the efficiency of lawmaking bodies enormously by affording the advantages of a division of labor. Each legislator works on the subject upon which he is best informed. The whole assembly obtains the maximum benefit of the knowledge and experience of its members. Furthermore, the committee system is advantageous in that it affords any citizen or organization of citizens an opportunity to present arguments for or against a prospective enactment while it is still in the legislative mill. This is accomplished through public hearings on bills.

Standing Committees. Several kinds of committees are created and utilized in lawmaking bodies. By far the most important sort is the "standing committee" which is empowered to control a general subject of legislation. A majority of the members of such committees are adherents of the party in power. In early legislative experience in the United States only a few such committees were created; as the variety and volume of legislation expanded, their

¹ Bruce, *op. cit.*, pp. 5 and 6.

² *Ibid.*, p. 6.

³ The number of legislative proposals in recent Congressional sessions is perhaps between 10,000 and 15,000. The introduction of from 1500 to 2500 bills in one session of a state legislature is not uncommon.

number multiplied. In the Senate of the United States there are over thirty standing committees. The most important of these are those which control respectively finance, appropriations, foreign relations, interstate commerce, and judicial matters.¹ The membership of the Senate's standing committees varies from three to about twenty-four. The House of Representatives has over forty standing committees which range in membership from two to about thirty-nine. The most important of the House committees control these subjects respectively: agriculture, appropriations, banking and currency, interstate commerce, judicial matters, labor, military affairs, naval affairs, public lands, rivers and harbors, revenue (called the "Ways and Means Committee"), and rules.

State legislatures all employ standing committees. The number of such committees in the upper house ranges from about ten to over fifty. In the lower house their number varies from less than fifteen to over sixty. In our state legislatures there is commonly, for example, a standing committee for each of these subjects: agriculture, appropriations, banking, cities, corporations, education, elections, forestry, health, highways, insurance, judiciary, labor, manufactures, mines, public utilities, revenue, and rules.

The councils in our municipalities also utilize standing committees. The number of such committees varies roughly with the size of the city — commonly from ten to twenty. Only in the councils of the smallest cities is the committee system not employed.

Besides standing committees, legislative bodies form and employ four other types of committees. (1) A standing committee may create a subcommittee whose function it is to serve the parent committee by an examination of and report upon some phase of prospective legislation which requires extensive consideration. (2) Special committees are formed by lawmaking bodies to undertake the examination of a particular subject which is of temporary but rather urgent concern. (3) Joint committees are created by Congress and by state legislatures. They serve the two houses of a lawmaking body simultaneously. Such a committee is brought into being to cope with a common concern which both houses feel can best be dealt with through this agency. (4) A conference committee

¹ The judiciary committee, for example, has charge of prospective legislation having to do with court organization, judicial procedure, and with nominations to judgeships.

is created by the two houses of Congress or of a state legislature. Its function is to reconcile the differences that develop between the houses of a lawmaking body when one house amends the bill of the other.

PROCEDURE IN LAWMAKING

A significant aspect of the legislative process is the procedure followed by lawmaking bodies in the enactment of statutes. While the Constitution of the United States, the constitutions of our commonwealths, and city charters contain some procedural requirements, our legislative bodies, just as in the case of internal organizational arrangements, are rather free to establish their own rules and methods of procedure.

Although the procedural forms and practices followed in lawmaking vary considerably in details in different bodies, the general pattern is remarkably similar in all legislative assemblies in the United States. In American lawmaking bodies almost every procedural step, as we have seen is true of organizational matters, is either colored or dominated by political party prerogatives and interests. A committee on rules really controls much of the procedure in each lawmaking body. A majority of its members are always affiliated with the party in power in the particular house. The procedure followed in the House of Representatives in Congress may be observed to indicate the general method of legislation.

Introducing a Bill. A prospective enactment is started through the legislative mill by being introduced, that is, it is given a title and deposited in a receptacle on the speaker's desk. This constitutes the "first reading," a formality without significance. After the introduction of the bill, it is referred to the appropriate standing committee. Then follows incomparably the most important step in the bill's progress through the House—committee action.

The Committee Stage. Perhaps nine-tenths of the work of the House is done in committee rooms. Certainly committees here, as in all other lawmaking bodies, play a stellar role in the legislative process. When a bill is received by a committee it proceeds to examine it. The first requirement is adequate information. This the committee obtains by holding hearings at which individuals or organizations may present their views whether on behalf of the bill or in opposition to it. While most hearings are open to the

public, on certain bills, such as those affecting national defense or involving matters that might, if publicized, be injurious to the interests of the United States, hearings may be held from which the public is excluded. Hearings on important bills may require many weeks, and the printed reports thereof may cover thousands of pages. The committee may employ subcommittees to facilitate its investigations.

When the committee feels it has sufficient information, it proceeds to discuss the bill in the seclusion of its committee room. As a result of its consideration any one of several things may occur. If it decides that the bill is without merit, the committee may make no report at all to the House or report it unfavorably. If a bill is reported unfavorably, which is the fate of a host of legislative proposals, in almost every case this means its oblivion, for rarely do the Representatives consider a bill that has failed to receive the recommendation of the committee to which it was referred. The committee may rewrite the bill entirely and present it as a substitute measure. Or it may report the bill favorably unchanged, changed slightly, or modified extensively. Decisions within the committee are made in accordance with the desire of the majority. If the bill is reported favorably, one of the members of the committee, usually the chairman, pilots the measure through the House.¹

Consideration of Bills after Committee Approval. When a bill is recommended to the House by one of its standing committees, it proceeds to the "second reading." The measure is placed upon one of the several calendars maintained by the House where it awaits its turn for consideration by the whole body. However, the calendrical order is often interrupted. By any one of several procedures a bill may be given the right of way over other bills ahead of it in the regular order. The House wisely provides "for quick and easy methods for setting the regular order aside, thus making it possible to bring matters of vital importance before it at any time."²

¹ The chairmen of standing committees are always adherents of the majority party. The chairmanship of an important committee is a position of great influence. "Whether or not the ablest member of a committee, the chairman is easily the most important. He guides and directs deliberations, reports their results to the House, leads in debate on the measures reported and not infrequently sees outstanding legislation put down into history with his name attached." Ogg and Ray, *op. cit.*, pp. 347-348.

² Johnson, *op. cit.*, p. 324.

To expedite discussion of a bill the House frequently turns itself into a "committee of the whole." Under this parliamentary arrangement no roll call is permitted and great informality of discussion is possible. Each clause of the measure may be considered, and general debate, the time for which may or may not be limited, ensues. Amendments or modifications may be suggested. When the committee-of-the-whole action is terminated, a report is made to the House which votes on the amendments that were proposed while the committee of the whole was operative. Further debate may now take place. Because of the size of the House (435 members) debate must be rather rigidly limited. The time allotted each speaker varies. "A member who manages to get half an hour considers himself lucky."¹ On almost all important measures the Committee on Rules sets the total time available for debate. This time is divided in two ways: (1) equally between those who urge and those who oppose the measure; (2) among those on each side who desire to speak on the bill. At the conclusion of this consideration under the second reading a vote is taken as to whether or not the bill shall be engrossed, that is, given its final literary form, and come to the "third reading." If the vote is in the affirmative the bill, after being given its final form, is read a third time by title only. Then the measure goes to the Senate.²

Post-House Action. The general procedure of the Senate in considering a bill is similar to that of the House. The chief difference is that in the Senate there is freedom of debate — all may speak who wish and each Senator may speak as long as he wishes.³ The Senate may reject, modify, or approve any bill sent to it by the House. If the Senate amends a House bill the differences between the two bodies are reconciled by a "conference committee" made up of members of both of these houses. When the differences are composed, the bill is again passed by each body. It then

¹ Johnson, *op. cit.*, p. 325.

² Bills may be introduced first in either house of Congress, except bills for revenue, which must originate in the House of Representatives.

³ This freedom makes filibustering possible. Filibustering may be described as "oratorical obstruction." One Senator or a small group of Senators hold the floor indefinitely and thus keep the majority from voting approval of the pending bill. Sometimes merely the threat of a filibuster enables a minority to gain its end. Some filibusters have lasted as long as eight weeks.

In 1917 the Senate adopted a closure rule under which, and by a procedure not easily invoked, it may restrict debate. For a description of this procedure see Young, Manning, and Arnold, *op. cit.*, p. 194.

goes to the President, who may sign or veto the measure. An enactment of Congress although vetoed by the President may still become a law by being passed again in each house by a two-thirds vote.¹

Procedure in State Legislatures. While there are variations among the states in legislative procedure the methods employed to effect legislation

are everywhere much the same partly because similar tasks lead to similar modes of action, partly because there has been a good deal of copying by one state from others, but mainly because of the inevitable tendency to follow the example of Congress.²

State constitutions delineate legislative procedures much more fully than does the federal Constitution. In the legislatures, just as in Congress, the two most significant procedural factors are party control and the employment of the committee system. The state lawmaking bodies, as in the case of Congress, must ascertain the necessity or desirability of the changes urged by pending bills, and consider how such legislation will probably affect all groups and interests involved in each case. Furthermore, they must decide in each particular case upon the form of the remedy, the method of enforcement, and the administrative agency which shall actually apply the law.

Procedure in City Councils. "Legislative procedure in city councils follows in general lines that in a single chamber of a state legislature, but is usually much simpler and more informal."³ The degree of formality, as one would expect, is in ratio to the size of the council and the complexity of its activities. A municipal charter usually contains procedural requirements for the council. In city councils political parties are less determinative of procedures than in Congress or state legislatures. In the enactment of municipal ordinances, as in the case of national and state law-making, the most important feature of procedure is the activities of committees.

¹ If the President fails to sign a bill within ten days it becomes a law just as if he had signed it. Measures passed by Congress during the last nine days of a session, however, do not become laws without the President's signature. When he does not sign bills in this period he is exercising the "pocket veto."

² Ogg and Ray, *op. cit.*, p. 697.

³ Anderson, *op. cit.*, p. 544.

THE POLITICS OF THE LEGISLATIVE PROCESS

Struggle for Power. An understanding of the American legislative process cannot be had merely by comprehending the general framework of legislation, and the powers, internal organization, and procedures of our lawmaking bodies. To these important aspects must be added an appreciation of the political forces and practices which animate and permeate the whole lawmaking process.¹ Legislation does not take place in a vacuum. On the contrary, lawmaking in the United States presents a scene which reveals a constant interplay of many potent interests and forces. Legislation involves the desires of hosts of individual voters, the demands of numerous organized groups, the ambitions of all political leaders not in office, the vested interests of legislators, and the constant determination of political parties to maintain, and when possible to extend, their influence over the electorate.

All politics is essentially a struggle for power, and the whole process of lawmaking, in nation, states, and cities, is freighted with ceaseless and multiple efforts on the part of rival individuals, groups, and political parties to advance their respective influences in society. By the term "politics" is indicated not only the conflict of interests, that results in a contest for power, but also the means by which these rival demands are met. Because of the necessity for the adjustment of conflicting claims made upon governmental officials and bodies, two aphorisms have been developed: "Politics is the art of what is possible"; "Politics is the art of compromise." This perpetual and vast struggle for power goes on both inside and outside legislative halls.

Politics outside Legislative Halls. Outside of lawmaking bodies the politics of legislation centers in the struggle to influence public opinion and win elections. Public opinion is the fundamental force in our democratic government. Constant efforts are made by writers of books and magazine articles, by newspapers, by speakers on the radio, and by civic forums to generate and mold public opinion. Since ours is a representative government, and the legislators possess great power, the nomination and election of lawmakers is a matter of vital importance to the electorate. Politics —

¹ Interesting and informative descriptions of "politics" in legislation and in the governmental process generally are found in Peter H. Odegard and E. Allen Helms, *American Politics*, Harper & Brothers, New York, 1938.

a power contest — is inevitably rampant on the occasion of election. In elections political parties play a stellar role in creating issues and in supporting candidates.¹ These organizations spend money, time, and energy in developing a favorable public opinion for their respective candidates and programs.

Politics inside Legislative Halls. Inside our legislative halls the play of “politics” is constant and prominent. Here a furious struggle for power and prestige takes place. Every session brings a flood of legislative proposals for the hoppers of the lawmaking mills. These multitudinous bills come from interested individuals and groups. Only relatively and infrequently do lawmaking bodies act of their own volition. This deluge of bills of course contains many rival demands. Any prospective enactment while pleasing to some voters will offend others. The main business of legislators, who are always under the imperious influence of political expediency, is to reconcile as best they may the conflict of interests represented in the electorate. If we look at the individual legislator in Congress or in a state legislature we see his constituents laying down upon him a barrage of telegrams, post cards, letters, and petitions. Unfortunately for him these communications call for support of and opposition to the particular pending legislation. His fellow solons also make demands upon him by making their support of his bills conditional upon his support of their bills, a practice known as “logrolling.”

Lobbies. Incomparably the most potent pressure under which legislators labor, and the one which displays most vividly the struggle for power, comes from lobbies. The term “lobby” designates an organized group interest which engages in efforts to influence legislation for its own advantage.² These group interests may be classified. “All lobbies fall into four more or less clearly defined types: economic groups, professional bodies, reform groups, and religious organizations.”³ The number of lobbies operating in our legislative halls has multiplied as the fields and the complexities of legislation have expanded. Today over 500 group interests, it is estimated, are organized to exert pressure on Congress. Though

¹ For an exposition of the functions of political parties see Chap. XXXII.

² See Pressure Groups and Invisible Governments, Chap. XXXIII, for a description and exposition of pressure groups, which are the employers of the lobbyists.

³ Young, Manning, and Arnold, *op. cit.*, p. 197.

of course their potency varies, some of them represent large numbers of influential voters, and some possess vast financial resources. Lawmakers are often subjected to pressure from two powerful opposing lobbies at the same time, for example, organized labor and the American Manufacturers Association.

A "lobbyist" is one who represents, works for, and is hired by a lobby. Lobbyists are expert in the art of applying pressure. They employ every method known to man by which influence can be exerted to promote or block pending legislation. Prominent in the ranks of lobbyists, who must be familiar with the intricacies of legislative organization and procedure, are ex-congressmen, ex-administrative officials, and lawyers. A vast majority of the important legislative enactments of our governments today is the product of pressures applied by lobbyists for the extension of the power and influence of the group interests which they serve. Of all the present-day influences which shape legislation in the United States, probably none is more powerful than the lobby.

Gerrymandering. An interesting practice in state legislatures and one which discloses a significant feature of the struggle for power that takes place between the major political parties, is gerrymandering. Since representation in the lower house of Congress is based on population, an apportionment is in order after each decennial census. Shifts in population across state lines cause some commonwealths to gain Representatives and others to lose them. In either case a redistricting of the state is appropriate, that is, new lines marking the bounds of each congressional district should be determined. Likewise, shifts of population within a state make desirable the establishment of new boundaries for state legislative districts for representation in the upper and the lower houses. The political party in power in the legislature when any redistricting is undertaken, whether of national or of state areas or both, proceeds to "gerrymander" the districts to enhance its own power and minimize that of the opposing party. This gerrymandering is accomplished by so

... grouping the political subdivisions as either to throw into a district subdivisions which are preponderantly of the opposite political complexion and thus confining their influence to a single district, or by attaching to such units other units having a sufficient preponderance of voters of its own party to submerge the voters of the opposition party.¹

¹ Willoughby, *op. cit.*, p. 300.

As a result of this practice the legislative map of a state often looks like a jig-saw puzzle.¹

Rural-Urban Friction. In legislatures of states with large urban populations there is constant and sometimes rather intense friction between the representatives of rural areas and those of urban centers. Here through their respective lawmakers a determined struggle for power is waged between urbanites and ruralites. The patent fact in this situation is that a system of representation is used which discriminates against urban areas, that is, city populations are underrepresented. Rural sections are correspondingly overrepresented. One example of this discrimination is evidenced in Cook County in which Chicago is located. The state of Illinois permits this county, which contains over half of the population of the commonwealth, only about 37 per cent of the members of the legislature. The explanation of such discrimination is found basically in the reluctance of rural areas to forego their early established and constantly maintained domination of urban centers. Through their dominance in the state legislature, "the rural sections in many states are able to keep the cities under control, dictating forms of government, administrative policies, and even standards of conduct."² As a result of such treatment, "the complaints of cities have been loud and sustained."³ But the rural areas doggedly maintain the *status quo*.

IMPROVEMENT OF LEGISLATION

Need for Improvement. A significant fact today is that no other part of our governmental system is in so much need of improvement as is the legislative process. Notwithstanding the fact that early Americans possessed an almost unbounded confidence in their law-making bodies, and therefore made the legislative branch dominant in every jurisdiction with the firm belief that government by and for the people must center essentially in the lawmakers, in each

¹ Sometimes legislatures refuse to redistrict the state. In Illinois, for example, the legislature has not redistricted this state's legislative districts since 1901, and for a number of years this commonwealth has had two congressmen for whom there is no congressional district. Each of these Representatives is therefore a congressman-at-large.

² Robert Phillips, *American Government and Its Problems*, Houghton Mifflin Company, Boston, 1937, p. 146.

³ Arnold J. Lien and Merle Fainsod, *The American People and Their Government*, D. Appleton-Century Company, Inc., New York, 1934, p. 252.

generation in the United States distrust of legislative bodies has broadened and deepened. State legislatures have suffered most in popular esteem.

The principal causes of this distrust have been the dominance of personal and local interests over the general welfare in legislative deliberations, the inability of the legislature to avoid needless extravagance and waste in the management of the state finances, and their practical incapacity to protect the public interests against invasion by powerful special interests.¹

Today "Dissatisfaction with legislative assemblies is acute and universal throughout the United States."² Many complaints are frequently expressed both orally and in print. There is widespread ridicule of legislative bodies in the press, public addresses, and private conversation. Lambasting lawmaking bodies and legislators almost ranks as one of the favorite indoor sports of the American people. Individual lawmakers are caricatured, lampooned, and made the butt of many a joke.

Sources of Difficulty. While the extent to which legislators themselves are responsible for the widespread dissatisfaction is a controversial matter, there can be no doubt that the colossal difficulties under which they labor is commonly little appreciated. Social problems are today far more complex than ever before. As the American people turn away from the doctrine of laissez faire and increasingly develop the conception of the service-state, the scope of governmental activity is vastly extended. In this milieu legislators are confronted with unprecedented perplexities. One difficulty they face is plainly the product of an American tradition: the dominance of individual and local interests over considerations of the general welfare. Every legislative body is compelled, if its members desire reelection, to deal with a huge volume of private and local legislation, often petty in character but consuming time and energy, nevertheless. Improvement of the legislative process lies with the voters and the general political system which they establish and maintain, as well as with those who sit in legislative halls.

Melioration of Committee System. Reform in the organization of our committee system in legislative bodies, which could be

¹ Under "Legislative Assemblies" in the *Encyclopedia of the Social Sciences*, The Macmillan Company, New York, 1937.

² Maxey, *op. cit.*, p. 214.

effected rather easily were there a sufficiently insistent demand for it on the part of the electorate, would produce a marked improvement in the efficiency of lawmakers. The number of committees should be diminished, and the size of their membership might well be reduced. Now individual legislators are often members of too many committees for efficient or satisfactory service. Legislative bodies might well employ many more joint committees, composed of members of both houses, to serve both bodies. There is an appalling amount of duplication of effort in the work of bicameral lawmaking bodies. Even worse, the two houses, all too frequently, work at cross-purposes.

Improvement in Procedure. The procedure in lawmaking is often unnecessarily cumbersome. The basic factors which account for the continuance of cumbersome procedures is the indifference of the electorate to the results of these conditions, and the desire of vested interests within legislative halls to preserve forms of action that can be manipulated to advantage.

One reform which the electorate could well insist that their law-making bodies effect is the establishment of adequate curbs on obstructionist tactics. That a small minority should be able to impede a lawmaking body in giving effect to the clear desire of a strong majority is indefensible. It violates the essential principle of democratic government.

An especially important procedural reform would be the elimination of the legislative jam which occurs at the close of sessions in Congress but far more seriously in state legislatures. The term "legislative jam" describes that condition in which a lawmaking body attempts to deal with a flood of bills in the last few days or hours of its session. State legislatures, although in session perhaps for months, and after dallying for weeks, often rush a large portion of the bills pell-mell through the legislative mill in the closing days and hours of the session. Sometimes all the members know about a bill is its title. So great is the pressure of time in some legislatures that in order to legalize the procedure the clock is stopped. It may really be 1:45 A.M. but the hands on the clock in the legislative hall point to 11:50 P.M. for, as in Illinois, for example, the bill, unless it is not to go into effect until one year later, must be passed by midnight of June 30. In this hectic legislative jam meritorious bills are often shunted aside. Much questionable, and sometimes

even vicious legislation is enacted under such circumstances for the reason that time is utterly lacking for adequate consideration of the bills which are being jammed through the legislative mill. The remedy for this reprehensible practice is simple but hard to apply: have the bills introduced earlier in the session. For example, the state constitution could require that only emergency bills could be introduced during the last fourth of the session period. What is needed to avoid the legislative jam is planning. This may be undertaken advantageously by a "legislative council" which could employ a staff of experts whose constant research and investigations enable it to make helpful recommendations to the legislature upon the opening of its session. With the information supplied by the council, and with its proposals for legislation, which are the product of careful and extensive deliberation, the legislature could "get down to business" very shortly after it convenes.¹

Lobby Regulation. Many efforts to improve the legislative process by regulating lobbying activities have been attempted. Although several attempts have been made, Congress has thus far not enacted any bill on the subject. Most state legislatures, however, have effected some regulation of lobbyists, usually involving some sort of registration or identification system. Lobbies may be helpful as sources of valuable information for the legislator, or they may, and sometimes do, perpetrate abuses. It would be futile to attempt to abolish them. Regulation of such agencies is difficult. The proper approach to this problem is consideration of the caliber of the legislators whom the electorate sends to legislative halls. It would seem that the only genuinely effective way to curb those activities of lobbyists which are inimical to the general welfare is to elect intelligent and incorruptible lawmakers.

Legislative Reference Bureaus. The many legislative reforms, only a few of which have been indicated here, that remain to be achieved should not blind one to the fact that much has already been accomplished in the improvement of legislation. An excellent example of a beneficial development is that of "legislative reference

¹ Such councils do exist. Illinois, for example, has one. It is made up of twenty-two members: the governor, the lieutenant governor, and ten members from each house. It is true the establishment of this council in Illinois has not eliminated as yet the legislative jam. This does not indicate that the idea of a council is not a good one. It has not been operative but a few years. Traditional procedures can rarely be altered quickly.

bureaus." Congress, about forty-two state legislatures, and many of our city councils now utilize the services of such an agency. A legislative reference bureau is a staff of experts which makes readily available to the lawmakers reliable and extensive information, and offers expert draftsmanship of legislative bills. Officially representing about forty states, the "Council of State Governments," which has its headquarters in Chicago, has established an agency called "Interstate Reference Bureau" which furnishes a clearinghouse for all the state legislative reference services. Many of the subjects of interest to a particular legislature are also of concern to other state lawmaking bodies.

Interstate Developments. In any survey of accomplished and prospective melioration of the lawmaking process the matter of interstate relations should be included. Much has been accomplished in the development of greater cooperation among the lawmakers of our commonwealths. Much remains to be achieved.

Our states could advantageously give more attention to the development of greater uniformity in legislation, the lack of which, especially in the case of statutes on marriage, has created much needless confusion. The business world has also suffered much unnecessary inconvenience and expense owing to the frequency of great dissimilarities in regulations established by the states. "The most effective agency at work to promote uniform enactments when uniformity is deemed desirable and practicable is the National Conference of Commissioners on Uniform State Laws."¹ Thirty-three of our commonwealths and territories have a commission represented in this Conference.

State lawmakers are now aided in solving some of their difficulties by a number of organizations of an interstate character. One of these is the American Legislators' Association, which holds conferences to consider common problems. There are about forty other interstate associations, "all concerned with the exchange of ideas and the improvement of standards."²

Prospects of Improvement. That many features of the legislative process are commonly derogated and could well be improved can scarcely be denied. The importance of legislation in a complex

¹ Ogg and Ray, *op. cit.*, p. 713.

² Charles A. Beard, *American Government and Politics*, 8th ed., The Macmillan Company, New York, 1939, p. 470.

and democratic society is such as to make highly desirable the development and maintenance of the best system of lawmaking possible. The defects of our legislative process, which occasion wide and constant complaint, cannot be eliminated by wishful thinking or reliance upon panaceas, but only by intelligent, continuous, and concerted effort on the part of alert citizens and progressive-minded legislators. Under our democratic system improvement in any phase of the government in general and in any aspect of the legislative process in particular can be achieved when the electorate really desires them and is sufficiently earnest and persistent in its demand for melioration and reformation.

TERMS TO BE UNDERSTOOD

superlegislation	standing committee
sublegislation	conference committee
bicameralism	joint committee
unicameralism	filibuster
congressman-at-large	gerrymander
caucus	legislative council
"elastic clause"	legislative reference bureau
enumerated powers	lobbying
implied powers	logrolling
party "whip"	politics of legislation

QUESTIONS FOR DISCUSSION

1. What would you consider to be adequate preparation and desirable experience for the work which devolves upon a legislator?
2. Why do political parties play such a prominent role in the legislative process?
3. How do you explain the fact that the theory of "separation of powers" is widely ignored in practice?
4. What part does the governor of your state take in lawmaking?
5. What is your explanation for the existence of many parallelisms in the United States in national, state, and municipal legislation?
6. Do you think that many of our commonwealths will, like Nebraska, establish a unicameral legislature? If so, why? If not, why not?
7. Does the legislative map of your state give evidence of having been gerrymandered?
8. How do you account for the prevalence of politics in the legislative process?
9. How do you explain the fact that there is considerably more dissatisfaction with the functioning of state legislatures than with that of Congress or city councils?
10. Is there any discrimination between rural sections and urban areas in your state as regards representation in your legislature?

11. What complaints do you hear most frequently in your locality of the law-making process? To what extent are such complaints justifiable?
12. What evidence could you cite to indicate that the electorate in your community is attempting to improve the defects in the legislative process of which the voters complain?

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THE EXECUTIVE

The Appearance of the Problem of the Executive. The behavior of the President of the United States, governor of the state, or mayor of the city constitutes no problem to the average citizen except as that executive fails to achieve expected objectives or fails to follow the recognized procedures on which the people have come to rely. The layman prefers an executive who protects his interests and defends them against internal and external enemies in accordance with established rules. He does not understand the intricacies of constitutional argument carried on by lawyers regarding the powers and functions of the executive office. In recent years in the debates on the proposals to enlarge the United States Supreme Court and reorganize the administrative management, he may either have accepted or rejected the arguments put forth by the opposition or the administration without always having been convinced that fundamental issues were at stake.

In times of widespread internal distress or threat from another country the average citizen lays aside his prejudices against the chosen leader. Like most men, the executive is judged less by the lofty motives he may have held than by the success of his efforts. In retrospect, the citizen in enjoying this success is quite willing to forget the means whereby it was achieved. Thus there are probably many people in the state of Louisiana who look approvingly at the modern roads that Huey Long built and take pride in the university buildings he erected without being too deeply disturbed by what may have been transgressions of the "Kingfish" on American democracy. The handiwork of Woodrow Wilson, the League of Nations, is not an object of admiration for the general run of Americans even though the political theory behind it, the ideals inspiring it, might be shown to be typically American and potentially world-saving. The fact is that it did not succeed in doing what the American citizen thought it should.

In general the qualifications of aspirants to the executive office and the duties and powers of the office arouse little interest among the citizenry. If they are favorably disposed toward the executive who happens to be in office and approve of his policies they may want leadership and vigorous action; if the personality of the executive does not appeal to them or they disapprove of his policies they may prefer that their representatives in the various legislative bodies assert themselves and hold the executive in check.

In the formation of public opinion respecting the executive, pressure groups (guided by skilled propagandists) and all the organs of opinion molding are instrumental. The case for or against the executive in question may be based on history (pseudo or real), or studded with precedent and such glib phrases as "checks and balances," "division of power," and "government of laws vs. government of men." If the executive is too weak, or if he becomes too strong, then usually the homely wisdom of the legislature or the learned justice of the court is called upon to redress the imbalance.

The political scientist is inclined to approach the problem of the executive by asking: What power must the chief executive have to meet the duties of his office adequately? Which powers are specifically designated in the Constitution, which are implied, which have grown up by custom and tradition? What checks on the power of the executive must be retained by the people, the legislature, and the courts in order to maintain an efficient democracy?

Significance of the Problem. Viewed from whatever standpoint, it is apparent that the position of the executive has been important in our social development. The determined action of Washington in suppressing the Whiskey Rebellion in western Pennsylvania with national troops is not unrelated to Andrew Jackson's action in respect to the Nullification Ordinance of South Carolina, nor to the response of Lincoln to the southern states' decision to secede. Washington's Proclamation of Neutrality during the Napoleonic Wars presaged a century and a half of discussion and experiment with reference to the possibility and desirability of the United States' trying to remain neutral while major belligerents tore at each other's throats in a world shrunken by technology. The Wilsonian New Freedom can be seen as a forerunner of the much more far-reaching social legislation of the New Deal — social legislation which can be carried into effect only by the sur-

render of some local responsibility which now passes to a new and larger army of federal administrators appointed by and subject to the chief executive. And finally the presidential leadership shown by Wilson in world organization may conceivably be repeated with more success by Franklin D. Roosevelt.

In contrast to these illustrations, one may suggest the failure of Andrew Johnson to dominate the reconstruction period in spite of his frequent use of the veto against vindictive and ambitious members of Congress; or the helplessness of Herbert Hoover to cope with a national economic emergency in the face of a majority in Congress with whom he did not agree. And although the President must leave the declaration of war to Congress, he can nonetheless precipitate a sequence of international events which may leave the Congress no course of action in honor but war.

The President of the United States, being the only national official (except the Vice-President who has historically wielded relatively little power) elected by all the voters, must consider himself as representing not a section or class interest, as may be the case with the legislator, but rather the people of every section and class. Faced on the one hand with this burdensome obligation, the chief executive enjoys, on the other hand, the greatest opportunity in the nation for vigorous leadership. Estimates claim that President Roosevelt's radio address of September, 1941, in which he reaffirmed the ancient policy of freedom of the seas, was listened to by 75 per cent of the American radio audience. This openness to the public scrutiny and access to the public ear may become and has become a liability to presidents of inferior political sagacity and personal qualities. The advance of technology into television and other fields of communication should in the future make this more rather than less true.

The Election of the President. The election in which Franklin D. Roosevelt was returned to the White House for the tradition-breaking third term probably involved the expenditure of some \$50,000,000 by all parties in their national, state, county, and local organizations. It produced a barrage of badges, buttons, banquets, parades, clubs, conventions, literature, and oratory.

Political observers have on occasion doubted that the convention system of nomination is adequate as a device for the selection of a man for so high an office as this one. Supplanting the caucus system

in 1832, the convention has become a quadrennial event anticipated with interest by most Americans and not a few presidential aspirants.¹ In a third of the states delegates to the National Convention are chosen at the spring primaries as required by state law; in the remainder of the states the delegates at large — two for each United States Senator — are chosen by the state party conventions, while the congressional district delegates are chosen by district or state conventions. Under the first method, the so-called presidential preference primaries, the delegates are presumed to have learned which of the names, at the time in the public eye for the presidency, the voters prefer. According to the second method the delegates are presumed to be instructed by the conventions. However, delegates in neither case consider themselves prohibited from changing to a more likely winner.

The party in power during the presidential term may find itself burdened at convention time with a first-term president whom they might not prefer to run again. However, a refusal to submit his name to the people a second time would be tantamount to an admission that a bad choice had been made earlier. In contrast, the party desiring to get in power may enjoy a wider range for selection. Nevertheless it is faced with a much more difficult task of offsetting the disadvantages of a new man without presidential prestige behind him, without patronage which could elicit loyalty, and perhaps without a well-oiled political machine or organization. Marked by keynote speeches, ostentatious nomination oratory followed by round-the-hall parades, horseplay by delegates and onlookers, the conventions usually grind to their inexorable conclusion through the behind-the-scenes trading and shifting of delegation votes. Out of the turmoil is likely to emerge some United States Senator, a state governor, or a dark horse without any political experience, such as was Wendell Willkie in 1940. Whoever he may be, the few months between the nomination and the elections in November will be strenuous ones of campaigning.

In the final national election the popular majority over the nation usually decides who shall be President, but this is not necessarily nor always the case. In the election of 1888 President Hayes had the necessary majority of electoral votes but a minority of the total popular vote. It must be remembered that legally the election of

¹ See Chap. XXXII on Political Parties.

the President and Vice-President is done not by the voters directly but by the presidential electors. These are state officials and are voted for by the people, and their number from a given state is equal to the total of Senators and Representatives. In the nation this total is 531, and a majority, or 266 electoral votes, is necessary for election. On a population basis the small states may be said to be overrepresented. Within a state the highest count for the electors of one party indicates that the total electoral vote of that state will be cast for the party's presidential candidate at the state capital in December. The certified results are transmitted to Washington where the electoral votes are opened and counted in the presence of Congress, the President of the Senate (Vice-President of the United States) presiding. It should be kept in mind that the present operations of the electoral system could be altered in any given state by enactment of its own legislature. It could decide to choose these electors, or provide a different method for choosing them. Furthermore, the electors are not legally bound to vote for the candidate whose party they represent, although tradition and politics seem to prevent any variation in the voting of the electors.

The oath of office, taken at the time the President is inaugurated, is prescribed by the Constitution. Until 1937 the presidential inauguration had occurred on March 4. However, by virtue of the Twentieth or *Lame Duck Amendment* of 1933, President Roosevelt began his second term on January 20. This new arrangement eliminates the long delay between the election and inauguration of a new President, which delay in time of internal or foreign crisis might have drastic consequences. Furthermore, it facilitates legislative matters since the Congress used to convene in December and mark time until the inauguration.¹

The President and His Cabinet. In a parliamentary or cabinet government the majority in the parliament gain the seat of prime minister for their leader and ministerial posts for other party workers who are also parliamentary members. This group of ministers then stands together as long as a majority of the parliament gives them its confidence, but falls when that confidence is withdrawn. Under such a system the ministers besides the prime minister may appear voluntarily or by demand before the legislative

¹ See Chap. XXXVII on Legislation.

body in a reportorial capacity or as defenders of an administrative policy. For example, Anthony Eden, as British secretary for foreign affairs, might have appeared before parliament to report on Anglo-German relations. Under an attack by the Laborite members he might have proceeded to defend his government's action and policy. The opposition could demand a vote of no-confidence which if successful would have made it imperative for the Conservative government in power to oust Eden and his policies. Or if the government wished to stand by them, it could either dissolve parliament and call for new elections, thus taking the issue to the country, or resign, in which case the king would have to designate the leader of the opposition to form a new government.

In contrast, our presidential system allows the Congress virtually no control over the selection of a President and only the control of approving the men who form his cabinet. Frequently though not always this cabinet has been recruited from party members outstanding for their political, financial, or social contribution to the party's success, their geographical origins, and/or their peculiar abilities. The names once decided upon, the President presents them to the Senate for confirmation. Ordinarily this is a routine affair; however, the Senate may hold a hearing in respect to the fitness of the nominees for the cabinet. The nominations of Henry L. Stimson for Secretary of War and of Frank Knox for Secretary of the Navy in the summer of 1940 are cases in point. On this occasion two members of the Republican Party were nominated for cabinet posts in a Democratic administration. This fact, plus the crisis in foreign policy facing the country at the time, encouraged the Senate to investigate the views of the nominees. Following the hearings the Senate confirmed the appointments.

Although our cabinet members¹ have no responsibility to Congress, it has become the custom for the administration to offer the services of cabinet members to various congressional committees to whom their special abilities may be valuable. Thus the Secretary of the Treasury may appear before the House Ways and Means Committee to explain features of a new tax bill. The committees of Congress may also request the presence of a cabinet member, but cannot force him to appear, inasmuch as the secretary's sole respon-

¹ With the exception of the Secretary of the Treasury who reports directly to Congress.

sibility is to the President who is in turn responsible to the people and not to the Congress.

Some political observers and critics have suggested that it would be an improvement if cabinet officers appeared on the floor of either house, as is done in Britain. Although this might induce more friendly relations between the departments and Congress, it might very well have effects so far-reaching that the longstanding relation between the executive and legislative branches would be altered. For instance, under such a plan the President would need to have concern for selecting those men for cabinet positions who would be most influential with Congressional members, thus narrowing his range of selection. Furthermore this might diminish the executive's influence with Congress and tend to distribute responsibility for administration policies which now rests solely with the President.

A secretary of a department remains in the official presidential family only so long as he sees eye to eye with his chief on major matters. True, the secretary may continue for some time keeping his divergent opinions from the public gaze, but sooner or later cabinet members must give way to the executive's will. Notable is the case of William Jennings Bryan who resigned when he could no longer agree with Wilson's policies.

The President's cabinet, which has increased as needs arose, has developed out of no specific provision of the Constitution, but rather out of the need for presidential advisers. Originally it was intended for the members of the Senate to act in an advisory capacity. George Washington, after experimenting, realized that the Senate was too large for direct consultation. He thereafter had four officers — Secretary of Foreign Affairs, Treasury, War, and an Attorney General — whom he came to call his "cabinet." Consulting them at first separately and then collectively, his practice has continued to the present.

The degree to which a President relies upon his cabinet will vary with the man and his preferences in advisers. Jackson preferred his select friends outside the cabinet; Harding leaned heavily on his cabinet. Today cabinet meetings are held regularly, and matters prearranged with the consent of the President are brought before the group. The executive is under no obligation to concur with the opinions and advice which he finds among the members. Although it is true that the President is responsible for all administrative

affairs, it is not infrequently true that he can utilize his cabinet officers as a buffer between himself and the opposition or the public. The utterances of cabinet officers may serve as "trial balloons" by means of which the tenor of public opinion is ascertained.

The Vice-President. In the past the Vice-President has come into prominence mainly at convention time when a candidate for the office is chosen with particular reference to doubtful areas, or in case of the death of the President. The Vice-President, after the inaugural ceremonies at which time he takes an oath of office, assumes his duties as president of the Senate. As moderator he does not participate in debate and votes only in case of tie. It is the duty of the Vice-President to keep informed on the state of public affairs in order to be prepared in the event he should be called to the President's chair. Calvin Coolidge and John N. Garner are the only Vice-Presidents who have attended cabinet meetings regularly. It appears, then, that he is, after a fashion, a member of the President's official family. That the office can take on very important governmental proportions has been demonstrated in the instance of the present Vice-President, Henry A. Wallace. Not only has he fulfilled important duties in internal politics but he was called upon before inauguration to go to Mexico in behalf of the Good Neighbor Policy. He has been designated by the President to head the important Supply Priorities Allocation Board composed of important cabinet members and administrative officials.

The President as Leader of His Party. In addition to being the leader of the nation, the President is considered the leader of his political party. As such he has, of course, the influence and the privileges of his high position. On some occasions in the past the President has been the titular head while the real leader has been some other party member. As the party leader the President with the cooperation of his cabinet must constantly keep in mind the political implications of their acts and their legislative proposals. Further it is to their interest in legislative matters as well as in looking toward the presidential and congressional elections to see that patronage is effectively distributed and that political fences are mended. In the elections of 1938 some anti-New Deal Democrats were standing for reelection. Franklin D. Roosevelt is by no means the first executive to use his tremendous influence against a recalcitrant party member as he did at that time. But the results of the

so-called purge elections in 1938 clearly demonstrated that the President had miscalculated the public's receptivity to his disciplinary methods.

The President and the Administration of Laws. The citizen who posts a letter, drives over a United States highway, pays a federal income tax, or enjoys the facilities of a national park is quick to protest at inefficiencies he may encounter. He rarely stops to realize that these things are made possible by and are contingent upon legislative acts of Congress, and further, that their proper administration is the responsibility of the President of the United States.

Under the Constitution the executive power is vested in the President. He must see to it that the laws are faithfully executed. Furthermore, he has taken an oath which requires him to protect and defend the United States. Ordinarily he discharges these obligations in a pacific and routine fashion. However, in emergencies he is empowered to use the Army and the Navy and the militia to secure obedience to the federal laws or to secure all rights guaranteed to persons or property under the Constitution. Ordinarily he will await the invitation of a state legislature before intervening in local affairs; however, he may interfere directly when national law, safety, or property is imperilled. Over the protest of Governor Altgeld of Illinois, President Cleveland did just this when the great railway strike in Chicago in 1894 obstructed the mails and the flow of interstate trade.

As the nation has grown, so also has the body of laws and the vast body of officials to see that the laws are carried out. Some of these officials are appointed by the President with the advice and consent of the Senate. In making the selections the President must have regard for the custom known as "Senatorial courtesy." This custom imposes on the President an obligation to refrain from nominating any person opposed by the Senator from the state concerned. Should the President proceed against the Senator's protest, in all likelihood he will find a bloc of Senators refusing confirmation. The President usually consults with Senatorial leaders before submitting names to the Senate. Many Presidents have inveighed against the practice of Senatorial courtesy, but the Senate would have to take part in its revision or abolition, and cooperation from this source is highly unlikely. The practice is

probably less restrictive on the presidential appointive power than the occasional practice of the Congress, in setting up a new law, of stipulating the requirements which the new administrators must fulfill. Such a measure severely restricts the executive's range of selection.

The President appoints over 40,000 federal officials including postmasters, commissioned officers in the army and navy, positions in the foreign service, United States district attorneys, judges on federal courts, collectors of internal revenue and customs, and a variety of other officers. A number of these might be considered inferior officers which under the Constitution might have their appointment vested by Congress in the courts of law or the heads of departments as well as in the executive. That the burden of appointments by the President is not relieved is probably because neither the party, the Congress, nor the President care to see this source of patronage foregone.

The executive power to appoint is derived from the Constitution specifically, but the power to remove officials once appointed is an implied power. How could the President fulfill his duty to enforce the law if he could not remove incompetent officials? The Supreme Court has indicated in the Myers Case that Congress has no right to restrict the President's authority of removal. There have been attempts by Congress, as in the Tenure of Office Act in 1867, to control removal of certain offices by requiring consent of the Senate. Most of these have been unsuccessful except perhaps for limited periods. However, in setting up the Federal Trade Commission, Congress stipulated that the members could not be removed except for inefficiency, neglect of duty, or malfeasance in office. President Roosevelt removed one William Humphrey on none of these grounds but because of differences of opinion on policy. The Supreme Court ruled that the Commission was a quasi-legislative and quasi-judicial body — that is, a body having functions resembling those of the branches of government — and that it was neither political nor executive in character. Thus it seems that in respect to such bodies as the Federal Trade Commission the Congress has definitely restricted the executive's power of removal.

Executive Orders and Regulations. Those who founded the Constitution intended that the President and Congress should share the control of the executive and administrative work. Thus the depart-

ments have been established by statute along with important administrative subdivisions. Congress determines the functions of these, may criticize them, suspend, or permanently stop them, and can alone provide the funds necessary for their continuance. However, it is the President or his principal officials who provide the immediate direction of activities, details of organization, and forms of procedure. This ordinance-making power of the executive is implied from his power of appointment and his obligation to execute faithfully the laws of the land. It amounts to quasi-legislative power which exists to fill in the many details about which legislators could not and need not be concerned when they write the laws. Thus the President issues consular regulations, army and navy regulations, rules for patent office, customs, and internal revenue services. The bulk of administrative orders are issued by department heads or even inferiors, but the responsibility for them rests ultimately with the President.

During the First World War and under the New Deal the presidential ordinance-making power has vastly expanded. In the first instance it involved the power to control transportation, fix prices, fix priority shipments, and declare embargoes. Under the New Deal, early legislation intended to meet the economic crisis facing the land broadly defined the policies to be followed and gave to the President or some administrative agency the power to fill in the details. This practice of the Congress received a sharp rebuff when the Supreme Court declared that the National Industrial Recovery Act gave legislative power to the President beyond Constitutional limitations.

As the size and complexity and importance of the chief executive's administrative organization have grown, Presidents from Taft to Roosevelt have recognized that there were many overlapping functions, many inefficiencies, and a pressing need for reorganization. After receiving a report from a committee of experts he had appointed to study the question, President Roosevelt in 1938 requested that Congress grant him the right to reorganize the federal administrative agencies. A full discussion of the developments under the law which Congress passed in 1939 will be found in the chapter following.

The President and Congress. As the problems of a highly industrialized society have multiplied in number, increased in

complexity, and spread in their ramification, the executive's position as an initiator of legislation and maker of policy has become more important and more difficult. Riding the crest of a tide of hope which swept him into office in 1932 President Roosevelt found his majority in the Congress peculiarly willing to look to him for leadership and to enact his suggestions into law. In the present administration one sees clearly the possibilities for administration-initiated legislation as long as the executive is dominant by virtue of his immensely popular position or political skill. Several of President Roosevelt's earlier bills passed through Congress with enthusiastic support.

Presidential Control over Legislation. The Constitution requires that the President shall give Congress information on the "state of the Union" which is usually done early in the Congressional session. The state of public affairs, internally or internationally, is summarized in this message to Congress, and plans for legislation which need prompt attention are suggested. In addition shorter messages are sent from time to time covering proposals for new legislation. Messages to Congress have been both oral and written in form. Their effect on the Congress may be to elicit prompt action, but that body is under no obligation to do more than give respectful attention. Frequently the device can be used and has been used as a sounding board from which public support for the executive's proposals may be solicited; or again a warning may thereby be delivered to a foreign country.

Under the Budget and Accounting Act of 1921 the chief executive through the director of the budget has annually reported on the nation's financial condition. The limitations on expenditures which he recommends need not necessarily be followed by the Congress but they certainly receive major consideration.

The Constitution requires that every bill which passes in the two houses shall be approved by the President. If he signs the bill it becomes law. If he disapproves he may exercise the veto power conferred on his office by the Constitution. He may refuse to sign, and return the bill to the house in which it originated, with a message giving reason for his action. This procedure demands then that the matter shall be dropped by Congress or else a reconsideration of the measure is necessary with an attempt to meet the President's objections. Or finally Congress may pass the bill by a two-

thirds vote in each house, the bill then becoming law without the executive's signature.

The veto power has been used with considerable discretion by our Presidents. Earlier, they used the power relatively little until Jackson vetoed measures, twelve in all, not only because he considered them unconstitutional or defective technically but also because he disagreed with their aim. Presidents since Cleveland have averaged between twenty and forty messaged vetoes, while President Franklin D. Roosevelt has sent back to Congress more than one hundred. In a small proportion of instances the Congress has overridden the presidential veto, and this only in a few really important cases.

During the last days of a Congressional session a great number of bills are rushed through. If within ten days Congress is adjourned and the President has not signed the bill, it is dead. This is called the "pocket veto." This procedure prevents any reconsideration of the measure at the concluded session although it may appear in the same or altered form another time. It should be noted also that the President may permit a bill to become law if he does not sign a bill or send a message veto, assuming Congress has not adjourned within ten days of the bill's passage. Thus he may avoid committing himself on a measure if he doubts its constitutionality or if he thinks it unwise for political considerations. Significant in all of this is the fact that through the veto power the executive has become an important factor in the legislative process.

The chief executive may control or try to control Congress with other more subtle devices. The very threat of veto is of course an important consideration for Congress in formulating bills. By his control of patronage the President can urge that Senators listen to his advice on a proposed measure. Although he does not appear on the floor of either house ¹ he may and does have frequent conferences with Congressional leaders. Further, because of his singular position, he has peculiar access to the public. Addresses to the general public, special groups, as well as press conferences and letters to private individuals, can be used to obtain popular support for his ideas against recalcitrant legislators.

¹ The President may, of course, appear in person to deliver his messages to Congress, as President Roosevelt has frequently done, and as some of his predecessors have done less frequently.

Legislative Controls over the President. As noted above, the Congress may pass a measure over the presidential veto. It may also through its control over the public purse hold the executive in check. Expansions in the army and navy, though deemed advisable by the President, must await funds from Congress. The power of audit, that is, an examination of the records of spending, belongs to the legislative branch although, being involved with other duties, it has assigned the duty to a Comptroller General who has not been responsible to the President.

The power of investigation permits the Congress to concern itself with the conduct of administrative personnel, the function of administrative agencies, and the spending involved therein. By the power of impeachment the Congress can remove executive officials. This procedure, which is quite cumbersome, involves investigation by the House and trial by the Senate, two-thirds of whose members present must concur for conviction. Articles of impeachment have been voted thirteen times by the House with only four convictions.

Popular Control of the President. There comes a time, as it has to some of our Presidents, when the Congress or some of its members, jealous of their prerogatives under the Constitution, fearful for their offices if the incumbent should not be reelected, or keyed more closely to public opinion, may oppose the President's policies. The last two years of the Johnson and Wilson administrations are historic cases in point. In both instances members of Congress and the Presidents stumped the country to secure popular support for their positions. President Franklin D. Roosevelt's plan to enlarge the Supreme Court, to reorganize the administrative agencies of the Federal government, and some of his domestic economic policies congealed a bloc of Republicans and anti-New Deal Democrats in opposition.

In times of crisis or of vital issues neither Congress nor the President can always gage public opinion accurately. The biennial elections of Representatives and some Senators serve as imperfect indicators of public sentiment, since Congressional representation is as likely to be sectional as national. It has been suggested that in such instances a national referendum be requested, either by Congress or by the President, to ascertain the public will. If the experiments in scientific polling of public opinion by either private

or public agencies continues to develop both in technique and public respect, it may be that there is a method, cheaper and swifter than a referendum, for ascertaining the majority will among the people.

The President and Foreign Relations. It is in the field of foreign relations that the President may play a most spectacular and important role, for here he is the sole official agent of the people and bears the responsibility for the protection of his country — through diplomacy ordinarily, through the use of the armed forces if necessary. Although he must rely on the Congress for a declaration of war, nevertheless it is he who is commander-in-chief of the armed forces and these cannot engage in action without his command.

In the days of the Articles of Confederation the power of the executive was vested in a committee. Because the Confederation was a league instead of a union, and because of the dominant position played by the Continental Congress, the executive found it extremely difficult to carry on effectively either war against Britain or relations with foreign states.

Profiting by this experience the founders of the Constitution saw clearly then what has since become increasingly apparent: the President must be endowed with sufficient power, and freedom of action to use that power, to protect the nation's interests. The President continually receives information through the Department of State from all parts of the world, organized and digested by experts. The collectors of this news and information are first of all ambassadors and ministers located in the capitals of the world, men who are appointed by the President with the consent of the Senate. In addition to these there is an army of career men composed of attachés, consuls, and special agents. Some of these individuals have access to sources which are closed to newspaper men, travelers, or even members of Congress on tour. The President may on occasion send a mission to some part of the world to gather information, as he sent Harry Hopkins to England in 1941 without consulting Congress. The bills in such an instance would be paid out of the executive's contingency fund unless Congress were requested and cared to make an appropriation covering it.

Under our system the President recognizes the existence of new states and governments. He takes the initiative in the negotiation

and conclusion of treaties, although ratification must await the assent of two-thirds of the Senate. It is pointed out with some reason that by this necessity a minority, that is, slightly over one-third, may prevent an action in foreign relations which a majority of the Senate and the people might favor. A close study of the record of the Senate in respect to the conclusion of treaties reveals that in most cases the Senate has moved with adequate speed in granting its approval or disapproval, and that in some instances, history has not yet shown conclusively that the delay was not in the best interests of the country.

Whatever legitimate objection there is in this area may be overcome possibly by developing some informal relationship between Congressional leaders and the executive. Some observers feel that the difficulties involved in securing Senate consent to certain treaties could be circumvented by means of a more extended use of the executive agreement which need not involve the consent of the Senate. Some executive agreements in the past, such as one between President Theodore Roosevelt and Panama in 1905, were later regularized as treaties with Senate consent. In some instances executive agreements may rest upon authority vested in Congress in a blanket act permitting the executive to conclude agreements with foreign powers. President Roosevelt secured such authority for concluding reciprocal trade agreements¹ in 1934. These agreements can be discontinued by an incoming administration, although in most instances it is unlikely that this would be done precipitately.

In pursuance of the President's powers as agent in foreign affairs and as commander-in-chief of the armed forces, there is really no limit to what action he might take in executive agreements — that is, no limits except the fear that Congress will not grant the money for implementing the agreements or fear of Congressional disapproval which might find expression in any one of the controls which Congress has over the executive. The transfer of American destroyers in exchange for British bases in this hemisphere in 1940 came about through the use of the executive powers discussed in this section. If additional authority had been required it could have derived from the statute of 1917 which expressly provided for the disposition of the armed forces by the President.

¹ See Chap. XXXI on International Economic Relations.

The Constitution nowhere provides the assurance that through acts of Congress or the President the United States will not become involved in war. Largely as a result of the disillusionment following the First World War, it has been proposed to remedy this so-called defect by providing for a popular war referendum except under certain important circumstances such as imminent invasion. In considering the advisability of this proposal two probable outcomes must be kept in mind. First, as long as the President retains the powers he now has he can through their exercise create conditions and incidents which could, as they have on occasion in the past, elicit popular and Congressional approval for war. Second, the referendum would incur an important institutional change, from government by representation to government by plebiscite. The inference is not that this would necessarily be a mistake, but rather that it might be wiser to see what can be done with the existing institutions in curbing the President. A number of authorities in this field have come to believe that inasmuch as other nations are necessarily involved in starting a war it is more important to try to perfect the machinery of international organization whereby disputes may be more easily resolved.¹

The President and the Courts. When President Roosevelt laid before the Congress his plan for the enlargement of the United States Supreme Court in 1935, there was loosed upon this country a discussion unparalleled in our time respecting the nature of checks and balances and the division of powers. Laying aside the emotional polemics appearing on both sides of the issue, much was written and said to clarify the relation of the judiciary to the executive and to the legislative branches of government. It is the duty of the Supreme Court to review legislation for the purpose of interpreting it and for testing its constitutionality. Most people, though some of them might disagree with the methods employed by President Roosevelt, have come to believe that the Constitution, if it is to survive, must be interpreted constantly in the light of our history and our present-day needs.

If at the President's suggestion the Congress passes laws which secure his signature and these laws are declared unconstitutional by the court, what means are open to the President to pursue his purpose? He may induce Congress to alter the measure, hoping

¹ See Chap. XLVIII on International Organization.

that in its revised form it will meet with the court's approval. This was done in the instance of the Agricultural Adjustment Act of 1933 which was declared unconstitutional in 1936. Here the Court held that the regulation of agriculture was a power reserved to the states.

The President may admit a mistake and drop the matter, or he may make a new attack on the problem. This was done in the National Industrial Recovery Act of 1933 which the Court invalidated in 1935 on the ground that it delegated powers of an essentially legislative nature to the executive and permitted regulation of industry beyond that primarily concerned with interstate or foreign commerce. Subsequent legislation has represented other attempts at facilitating economic recovery.

The chief executive may urge the people or members of Congress to propose an amendment to the Constitution granting specific power to the Federal government to fill the need recognized. The disadvantage of this lies in the length of time necessary for getting an amendment accepted and in the fact that it would be impossible to attempt a new amendment for every new piece of social legislation.

The President may alter the composition of the Court as vacancies occur, filling the posts, with the advice and consent of the Senate, with men who agree with him. Or he may attempt to alter the balance of power in the Court by enlarging it, as President Roosevelt proposed in 1935.

In contrast to the position of the executive in our government, under a cabinet or parliamentary system such as England has, the parliament functions without a division of powers and without checks and balances. There the executive assumes leadership in policy-making and in initiating legislation, but the cabinet is responsible as a whole to the parliament and its members are also parliamentary members. Further the parliament is its own court, the highest in the land. It would be unlikely that that body would declare unconstitutional a law which it itself had passed.

The Governor of the State. When the colonies in revolt deposed the royal and proprietary governors, they increased the power of the legislature and successfully kept the governor in a subordinate position. As the franchise was widened, as the development of party

politics proceeded, the governorship increased in importance, though it remains subject to many and severe restrictions.

As compared to the President of the United States, the governor is not only the executive over a smaller area and population, but he wields much less power. As leader of his party in the state as well as administrator, the governor does initiate legislation and lay down some public policies. In most states, Illinois being an exception, he has no cabinet as does the President; however, in some states he is assisted by an executive council of which he is the chairman and which is composed of constitutionally elected officials. The governor commands the state militia subject to the superior command of the President. Like the latter he may veto bills passed by the legislature, although in three-fourths of the states he may veto items of the appropriation bills — known as the “item veto” — while approving the rest of the measure. Similar also is his power to pardon and grant reprieves, commute sentences, grant paroles — all within the regulation of the state law. He can return or demand the return of criminals who have fled to or from his own state. In the state administration the governor has quite restricted powers of appointment as compared to the President. His power to issue rules and regulations pertaining to the administration of state laws is also limited. Like the national executive the state governor is subject to impeachment by the legislature. The record shows about ten cases of impeachment with fewer convictions.

The Mayor of the City.¹ Whereas counties have no executive and townships and small towns may have none, in the larger towns and cities the executive has increased in prominence as urban problems have become more complicated. Here with more functions to be performed and with more patronage to be distributed, the position may even become attractive as a steppingstone for those with political ambitions in the state or nation. The administrative problems of a great city like New York or Chicago have assumed importance as great or greater than those confronting the governors of our states.

Like the state and national executive, the mayor enjoys a position as party leader as well as legal administrator. He has patronage to distribute, he must execute laws made by the city council. In the mayor-council city government such as that of New York, the

¹ Cf. Chap. XXXVI on Metropolitan Regions.

mayor has the power of appointment and removal of the more important administrative officials. In a modification of this plan the consent of the council is necessary for both appointment and removal. Under the commission form of city government the mayor is chairman-member of an elective group of from three to seven commissioners. Here he has no more power of appointment than any other member of the commission. In the city-manager plan the manager, an expert, is appointed by the council which formulates policy and is responsible for control. The manager supervises the work of subordinate officials who are chosen on the basis of examination, and he is responsible to the council. The mayor under this system assumes a titular position.

Conclusions. Characteristic of the American executive at the three levels of government considered here is the fact that he has more and more become the manager of a big business. His responsibilities and his powers have grown. The necessity for an executive with managerial ability and training is becoming as clearly recognized as the need for one with ability and training in politics. Under our republican form of government there is observable a constant effort on the part of each of the branches to guard its own constitutional prerogatives jealously and see to it that the others do not gain new powers too easily or without reason.

TERMS TO BE UNDERSTOOD

administrative measure	messaging veto
cabinet or parliamentary government	partial or item veto
city manager	pocket veto
executive agreement	presidential electors
executive order	presidential preference
impeachment	primaries
judicial review	quasi-legislative power
	Senatorial courtesy

QUESTIONS FOR DISCUSSION

1. The President of the United States has just negotiated a treaty with state X providing for the exchange of war materials. What controls remain available for the Senate, House, and people of the United States in respect to this treaty?
2. What repercussions might be expected if the electoral college were abolished?
3. What would be the effect of a war referendum on national unity, morale, foreign powers, the executive, and Congress?

4. If the Congress feels that the growth of the executive power has disturbed the balance among the three branches, what checks are at hand for restoring the balance?
5. What arguments would likely be proposed for or against the use of the item veto by the President by the following parties: President, Congress, and the voters?

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PUBLIC ADMINISTRATION

Meaning of Public Administration. "The work which the government does to give effect to a law is called administration."¹ When Montesquieu in his *Spirit of Laws* emphasized the already old principle of the separation of powers into three groups, the legislative, the executive, and the judicial, he did not fully realize that there are in reality only two governmental functions. The first is the formulation of public policies in accordance with public opinion, which is mobilized by individuals, by pressure groups, and by political parties and expressed in elections and in legislation. To this process the name of "politics"² may be given. The second function is public administration, which (by way of some enlargement of the definition given above) "consists of all those operations having for their purpose the fulfillment or enforcement of public policy as declared by the competent authorities."³ Thus, when a government assesses taxes, punishes criminals, recruits an army, delivers mail, insures bank deposits, and prevents soil erosion, it is doing administrative work. This field of operation should be differentiated from other governmental functions.

ADMINISTRATIVE INTERRELATIONSHIPS

Politics and Administration. It is difficult to draw a line between politics and administration. No one has been able to ascertain exactly where the first ends and the second begins; yet the failure to distinguish between these two activities has retarded the development of sound public administration in this country. The function of politics is not only to determine policy, as said above, but also to settle peacefully conflicts of interest, whereas the office

¹ Harvey Walker, *Public Administration in the United States*, Farrar & Rinehart, Inc., New York, 1937, p. 5.

² Here this word does not have the unpleasant connotation of common usage.

³ Leonard D. White, *Introduction to the Study of Public Administration*, The Macmillan Company, New York, 1939, p. 3.

of administration is to carry out or execute policy. These different types of activity may call forth contrasting personal qualities. The politician (in the best sense of the term) must be a practitioner of what Professor T. V. Smith calls the "civic art"¹ of compromise, while the administrator should be an expert technician.

Executive Work as Administration. Further examination of administration reveals that it embraces many of the activities of the executive branch of government. Sometimes the executive is described as an official who has the power to determine policies, issue orders, and make rules, while the administrator merely carries out the laws and policies dictated by superiors in a routine manner and with little freedom to exercise his own discretion. Although it is true that some of the powers — such as the veto, the message, and the pardon — exercised by the executives described in Chap. XXXVIII are largely nonadministrative in nature, the distinction is commonly disregarded. Thus the President is properly called a chief administrator as well as a chief executive, and his regime is popularly known as "the administration."

Legislatures, Courts, and Administration. How is administration related to the principal activities of legislatures and courts? In answering this question Professor Leonard D. White writes:

Their [the administrators'] work is normally subject to reasonably clear differentiation from policy making, which is the primary function of legislative bodies; and from adjudication, which is the primary function of the courts. Administration usually is no more than the application of public policy to the particular case, the characteristic function of the executive branch.

Some forms of administrative action, however, cannot be disposed of so simply. At times they are hardly to be distinguished from genuine legislation; at other times they seem almost identical with adjudication.²

Thus, while the law designs the main parts of the administrative machine, lays out the work it is to do, authorizes the purchase of its fuel or operating funds, provides for the selection of its driver personnel, and affords safeguards to private citizens against injury from it, administrative officials have some influence on legislation. They are increasingly drafting bills, testifying before legislative

¹ Leonard D. White and T. V. Smith, *Politics and Public Service*, Harper & Brothers, New York, 1939, Chap. VII, The Civic Art in America.

² White, *op. cit.*, p. 9. See also Marshall E. Dimock, *Modern Politics and Administration*, American Book Company, New York, 1937, p. 237.

committees, and, by issuing regulations, filling in the gaps left by the statutes, which sometimes lag behind changes in the social order.¹

For purposes of illustration one might observe the dual role of the Interstate Commerce Commission which, when making supplementary rules governing the operation of railroads or other common carriers, acts in a quasi-legislative² capacity. On the other hand, while engaged in the collection of testimony, evidence, and facts, and in the decision of the cases and controversies which inevitably arise under these regulations, it does quasi-judicial³ work. Another good example of the second type of activity is afforded by the Board of Veterans' Appeals, which hears about 42,000 cases every year.⁴ Such facts as these led Marshall E. Dimock to write: "Judged by the percentage of total expenditures and the relative number of persons employed, roughly three-fourths of American government consists of administration."⁵ Clearly, the administrator has many roles which are constantly increasing.

THE EXPANDING SCOPE OF ADMINISTRATION

When Alexander Pope wrote during the first half of the eighteenth century,

For forms of government let fools contest;
Whate'er is best administer'd is best . . . ,

he seemed to foretell the chief need of the "service state" — that is, a good administration — which grew from the decaying stump of laissez-faire about a century later. It is, of course, true that the expansion of the public services long antedated 1933. The spread of post offices, of public education, and of internal improvements — now known as "public works" — has been going on for more than a century.

Causes of Administrative Extension. One can do no better than to borrow David Cushman Coyle's explanations of this phenomenon.

¹ See Chap. XLIV, Constitutional Reform and Social Progress.

² As though it had the powers of a legislature.

³ As if it were a court.

⁴ James M. Landis, "Crucial Issues in Administrative Law — the Walter-Logan Bill," *Harvard Law Review*, 53: 1079, 1940.

⁵ *Op. cit.*, p. 257.

Rise in National Income. The first he gives is the rise of the national income: "The real income per capita more than doubled between 1860 and 1929. The people had more to do with, and then chose to spend some of their extra income for new and improved services."¹

Urbanization. A second reason this writer mentions is urbanization and rising standards of living, which have called forth in spite of the protests of taxpayers such conveniences as running water, sewers, garbage collection, and paved streets, together with elaborate systems of public protection and recreation.

Services at a Bargain. Third, Mr. Coyle states, "Underlying the effective demand for more and more services is the fact that most of these services are at a bargain."² Thus a large post office costs less than thousands of private messengers; "a public library is the cheapest way to get books to read"; and a police department is better than an army of private watchmen. These savings arise from economies in buying, from the elimination of duplication of effort, and even from the avoidance of the cost of selling a service to the people.

Essential Public Ownership. Fourth, private natural monopolies tend to evolve into governmentally owned services when public ownership is deemed necessary for the preservation of life (as illustrated by water systems); when these private concerns become inefficient or bankrupt (as exemplified by the status of some railroads in the United States); or when regulation by utility commissions fails (as at times in a considerable number of the states of the Union).

General Benefits without Profits. Finally, Mr. Coyle writes, "There is a growing class of operations that create a profit but that cannot be organized so as to collect the profit from the people who get the benefit."³ Here the TVA is cited as an enterprise in which the "profits appear as a combination of tangible and intangible effects," illustrated by more electric power, the reduction of flood crests, soil conservation, better navigation, the stimulation of manufacturing, and the development of recreational facilities. To this

¹ David Cushman Coyle, *Roads to a New America*, Little, Brown & Company, Boston, 1938, p. 267.

² *Ibid.*, p. 269.

³ *Ibid.*, p. 275.

list one might now add the production of such vital raw materials for use in war as aluminum.

Other Spurs to Expansion. Some additional reasons for the rapid increase of administrative organizations might include the following: (1) the collection of information as a basis for lawmaking and the aiding of certain groups or citizens;¹ (2) the "inevitable tendency for bureaus to expand,"² as a reflection of a growing population, and of pressure from citizen groups or bureau chiefs; (3) the desire on the part of a legislature or of an executive to evade or postpone the solution of some important question, which has been forthwith turned over to a special board or commission; (4) the aim of increasing the office "spoils" to be distributed as a reward for party services; (5) the general loss of power of legislatures to the executive branches of the different levels of American government; and (6) governmental penetration of the province of private business, especially in the utility and insurance fields.

Government Business and "Business Government." So it has come about that today over one-tenth of the gainfully employed people in the country operate in no fewer than 175,418 legally organized units of government within the United States.³ As was to be expected, the evolution of the government of the United States and its subdivisions into the country's largest business has from time to time evoked protests from taxpayers and those who fear the influence of officeholders upon public policies. Despite the efforts to curb it, the federal administrative establishment will probably continue to expand, particularly under the impact of the gigantic war program. To a lesser degree, perhaps, the same statement can be made of state, county, and city administrative agencies.

In the opinion of some a remedy for the expanding business of government is to make government more like business. However, there are limits to the application of the slogan, "less government in business, and more business in government." This is true not

¹ Senator Pat Harrison has called attention to an extraordinary list of titles of pamphlets published by federal service agencies, such as "Utilization of the Calcium in Spinach," "The Self-Help Bib," the "Reindeer Recipes." This unfairly satirizes the really helpful activities of governmental bureaus. See James M. Beck, *Our Wonderland of Bureaucracy*, The Macmillan Company, New York, 1933, p. 90.

² See White and Smith, *op. cit.*, p. 79.

³ John N. Andrews and Carl A. Marsden, *Tomorrow in the Making*, McGraw-Hill Book Company, Inc., New York, 1939, p. 205.

merely because the achievements of businessmen in public offices average no higher than those of professional and certain other men, but also because private enterprise is by its very nature fundamentally economic, whereas the public business in democracy is political and must satisfy at least a simple majority of the electorate. In other words, the latter, unlike the former, is a service rather than a profit-making enterprise. By the same token the public business lacks competition as an incentive to more efficiency and the improvement of its goods and services.¹ There are, to be sure, academic standards for measuring the efficiency of governmental bodies, but the masses of people judge their governments by what they receive from them. "The 'voice of the people' sometimes suggests the squeal of pigs at the trough."²

Finally, it is a curious fact that while capitalistic enterprise reached its highest development under the aegis of liberal democracy, it has always been organized on an authoritarian basis with something resembling a dictatorship at the top of the pyramid. However, the rank and file employees of a private corporation have little to say concerning its policies, while public employees may bring both votes and political influence to bear on a given situation or official.

PRINCIPLES OF ADMINISTRATIVE ORGANIZATION

Meaning of Organization. Despite the differences between private and public businesses above set forth, there are a number of principles or rules of action of large-scale enterprises which they possess in common. The most important and inclusive of these is organization. Perhaps the best definition of organization is that of Professor John M. Gaus, who states:

Organization is the arrangement of personnel for facilitating the accomplishment of some agreed purpose through the allocation of functions and responsibilities. It is the relating of efforts and capacities of individuals and groups

¹ Contrary to the prevailing impression, the ethical standards of governmental enterprises are probably as high as those of business. Dr. Harvey Walker gives an important reason for this when he writes: "The legislative bodies in our local, state, and national governments have surrounded the transactions of public officers with restraints far more numerous and detailed than are to be found in any government regulation of private business." *Op. cit.*, p. 13.

² E. Pendleton Herring, *Public Administration and the Public Interest*, McGraw-Hill Book Company, Inc., New York, 1936, p. 3.

engaged in a common task in such a way as to secure the desired objective with the least friction and the most satisfaction to those for whom the task is done and those engaged in the enterprise.¹

Centralization. The nature of the organization is significantly influenced in the first place by the extent of centralization. Within the United States there is still considerable local autonomy in spite of the obvious tendency toward the centralization of power in the Federal government. However, in the opinion of many authorities, grants-in-aid for relief, highway building, education, and so on, together with certain inducements of the Social Security Act and other national statutes, are taking from the cities, counties, and even states much of their independence. Thus the logic of events is in favor of centralization around the Federal government.

Single and Plural Executives. A second factor affecting organization is the question whether a government is to have a single or multiple head. The trend in the United States is toward only one executive head, although there are both single and plural executives, depending upon the kinds of duties performed. Thus, when promptness, decision, quick action, and responsibility are needed, as in police and fire departments, two or more heads are not so good as one.² However, duties which involve deliberation, investigation, and judgment are on the whole better dispatched by plural executives, usually called "boards" or "commissions."³ Some of these have only advisory powers; others may make rulings and regulations with the force of law, subject to review by the courts. Examples of advisory groups are the National Resources Planning Board and the Chicago Plan Commission. The type of body which has rule-making and regulatory powers is exemplified by state tax commissions, the Interstate Commerce Commission, the Federal Trade Commission, the Federal Communications Commission, and the National Labor Relations Board.

It will be noted that all of the latter group of agencies deal with complicated and conflicting interests, the balance of which can

¹ John Merriman Gaus, L. D. White, and M. E. Dimock, *The Frontiers of Public Administration*, University of Chicago Press, Chicago, 1936, pp. 66-67. Quoted in Leonard D. White, *op. cit.*, p. 27. See also Edwin O. Stene, "An Approach to a Science of Administration," *American Political Science Review*, 34: 6, Dec., 1940.

² See Chap. XLI on Public Safety.

³ See Charles S. Hyneman, "Administrative Reorganization," *The Journal of Politics*, 1:62-65, 1939, where a dissenting view is expressed.

better be arrived at by several minds than by one. This is a sphere in which a board or commission can function effectively, but it is not equipped for good management, as was shown in the early history of the Tennessee Valley Authority. After much confusion and friction over personal and administrative matters, which resulted in President Roosevelt's removal of the chairman, the Authority decided to appoint a responsible general manager.¹

The Departmental Pyramid. Before the activities of a general manager are viewed in some detail, it would be well to examine certain other basic principles of organization. The approved plan for the internal organization of a department is a pyramid or hierarchy with the chief executive at the apex and under him a number of single-headed bureaus and divisions, each with a chief accountable to his head and thereby to the chief executive.

Ladder of Responsibility. The lowest unit within the department, the individual employee, is at the base of a ladder of responsibility reaching to the chief executive. Professor Leonard D. White writes:

The lines of responsibility and authority flow along the hierarchical structure. Through link after link, the chief executive is united with each individual worker, no matter how humble or routine his task. The whole organization is bound together by the power to command expressed in regulations, minutes, circulars, individual orders and precedents.²

The Functional Principle. According to the functional principle of organization involving the grouping together of employees with similar duties, which is commonly followed in every large business organization, there may be a purchasing division, an auditing bureau, and so on. To be sure, it is difficult to determine how many of these groupings there ought to be. Too many of them makes effective supervision by one person very difficult; too few of them sometimes results in a lack of unity within each.

Span of Control. Perhaps the best general rule that can be followed is that the number of departments should not be so large as to be beyond the span of control (a phrase which means the utmost extent of effective supervision) of the chief executive. In the opinion of Vice-President Henry A. Wallace, "Most administrators

¹ White, *op. cit.*, p. 91.

² *Ibid.*, p. 44.

can keep in contact, directly, effectively, and continuously with not more than twenty men.”¹

Centers of Decision. Such being the case, it is essential that at intervals along the lines of responsibility there should be ever greater centers of decision until the chief executive is reached. The chief executive usually confines himself to major matters of policy, while conferring upon or “delegating” to his subordinates the authority to decide and do specific things.

Unified and Definitive Command. Every good organization must have a united and final command at the top. Otherwise confusion, delay, irresolution, and irresponsibility will result. The powers and duties of each bureau and division must be clearly outlined. Over-lappings and duplications must be eliminated so far as possible. Responsibilities of division heads must be definitely fixed, while care must be taken to give them the authority to accomplish those things for which they are held responsible.

The Line and Staff Principle. Finally, from the larger point of view, it is sometimes advisable to group the departments of a large organization in accordance with the line and staff principles. In an army, where the terms were first used, the line forces are those engaged in actual fighting, while the staff divisions devote their efforts to planning. In applying the second part of this analogy to civil administration, one finds with Professor Leonard D. White that “a staff is an organ advisory to a responsible official, but without operating responsibilities.”² Many of the national defense and war posts, as noted hereafter, are of this nature.

Civil line agencies are, of course, those which render services to the public. An example would be a state, county, or city department of public welfare. However, in large organizations these two organs are often supplemented by such auxiliary services as those given by centralized purchasing offices and typewriting “pools.” By the latter is meant the centralization of all the typewriting in one place. As in the case of the former, economical assistance for the line agencies is the goal. Line, staff, and auxiliary divisions, while more or less independent of each other, are all under the supervision of the chief executive.

¹ Henry A. Wallace, “Emergency Problems in Public Administration,” *The American Political Science Review*, 34: 218, Apr., 1940.

² White, *op. cit.*, p. 42.

ADMINISTRATIVE FUNCTIONS

The Chief Executive as a General Manager. Figure 45 will be of service in illustrating some of the principles of organization already discussed and in calling attention to the work of the chief executive as a general manager. This particular role of the executive did not assume great importance until about 1910, by which year two kinds of general managers had emerged. The first, described by Professor White as the "political, nonprofessional,

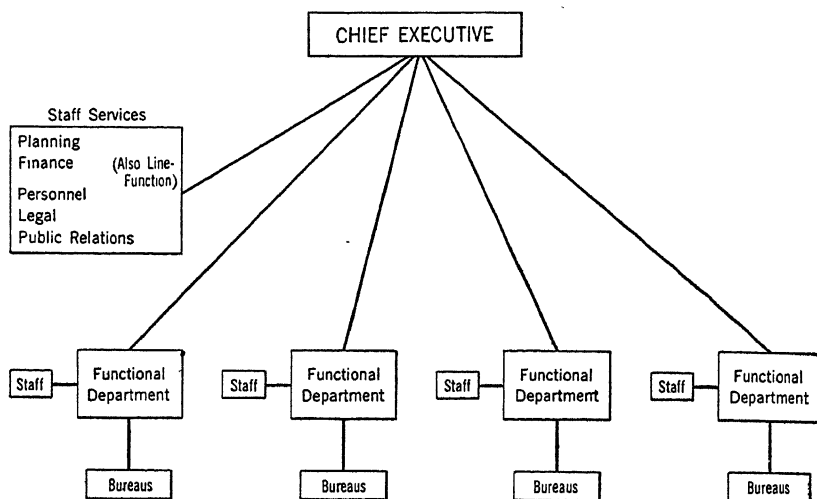


FIG. 45. ADMINISTRATIVE ORGANIZATION, ILLUSTRATING FUNDAMENTAL PRINCIPLES From Marshall E. Dimock, *Modern Politics and Administration*, American Book Company, New York, 1937, p. 264.

independent type," is illustrated by mayors, governors, and presidents; and the second, the "nonpolitical, professional, responsible" type, is exemplified by superintendents of schools and city managers. In either of these groups, the chief executive as a general manager has much the same range of administrative duties, which can now be rapidly surveyed.

The Staff. Reference has already been made to the staff. This is an advisory group which aids the general manager, not in carrying on line or auxiliary activities, but in planning general policies and the details of organization. As the diagram shows, members of the staff stand to one side of the functionally organized, hierarchal departments. They collect information, plan, and recommend decisions, but do not make them, as this is the sole prerogative of

the chief executive. But when the general manager has come to a decision, it may be transmitted and explained to the operating heads by the members of the staff, who watch the results.

The staff does not, however, confine itself to internal activities, largely because of the fact that in recent years the chief executive has had to call on his aids for assistance in conferring with legislators, pressure groups, and citizens' organizations; in speaking anywhere on practically every administrative and public question; in representing his office in negotiations with other authorities; and in issuing public reports. In brief, an efficient staff can do much toward assisting the general manager in carrying the increasing burden of public relations.¹

Administrative Direction. To manage properly staff, line, and auxiliary services, the chief executive must first of all have the power of administrative direction. At the basis of this there must be authority to appoint suitable subordinates and to give them specific directions, the nonperformance of which may entail dismissal as a penalty. The classic illustration of this is President Andrew Jackson's discharge of two secretaries of the Treasury who refused to transfer funds from the national to the state banks.

Ordinances. Instructions are often given through ordinances or executive orders² which are proclamations, decrees, and rules having the force of law. They have usurped the place of legislative acts in the European nations under dictatorship, whose parliaments are mere "rubber-stamp" bodies. Although ranking below the statutory law in democratic countries like the United States, such rules and regulations as those of the President and of the Postmaster-General are nevertheless of great legal and practical importance. It must be added, however, that directions are conveyed quite as often by word of mouth as otherwise.

Coordination. Hardly have the administrative wheels begun to turn before the general manager encounters the necessity for coordination. This means the proper and smooth working together of the component parts of a governmental machine to accomplish

¹ There is an extensive literature on this subject. See for example Jacob M. Pfiffner, *Public Administration*, The Ronald Press Company, New York, 1935, pp. 457-487.

² In theory, these are designed to fill in gaps in the law. The reader should note how they differ from the legislative enactments of a city council, which have the same name. See James Hart, *The Ordinance-Making Powers of the President of the United States*, Johns Hopkins University Press, Baltimore, 1925.

its purposes in the fullest possible measure. Just as in an automobile assembly line a "bottleneck" caused by some stoppage or the lowering of the speed of output cuts down the daily production of cars, so in a governmental office the consequences of imperfect coordination are disorganization and reduced efficiency. Indeed, the lack of coordination between the Army and Navy at Pearl Harbor had fateful results.

In a small organization sufficient coordination may be brought about through the chief executive, the cabinet council, and such staff agencies as are available. However, in a larger setup other devices, such as interdepartmental councils or an official coordinator, like the Chief Coordinator of the Federal Bureau of the Budget, may be essential. Whatever the means used, coordination is a continuing and pressing need in any administrative organization, for it means not merely the working together of all the component parts, but their synchronized meshing to attain the largest possible output.

Investigation and Review. Two other powers¹ which should be available to a chief administrator are those of investigation and review. The first of these is self-explanatory. The latter function of the heads of administrative establishments refers to their power of reviewing the decisions and actions of their subordinates and of making final determinations in controversial questions of fact.² Just how final are decisions of this kind? To answer that question, one may suppose an act of a governmental employee who has been upheld by a superior adversely affects a citizen. What court redress has the person who alleges an injury? The answer is that the courts will ordinarily refuse to substitute their judgment for that of the administrative head, unless the person who claims to have been wronged can successfully base his appeal on a question of *law* rather than of *fact*.

ADMINISTRATION AND THE LAW

Administrative Law. Thus administrators, who often aid in the formulation of statutes, are themselves limited by constitutions and

¹ Another is fiscal administration, certain phases of which are discussed in Chap. XLIII, Government Expenditures. Still another, personnel management, is treated in a separate section below.

² Chester C. Maxey, *The American Problem of Government*, F. S. Crofts & Co., New York, 1937, p. 265.

laws. Moreover, they are responsible to the courts for their observance of the same, and "must always act within the four corners of the statute."¹ In interpreting these legal obligations American courts have developed an extensive body of administrative law. This, be it noted, includes the orders, rulings, and regulations of administrative bodies, if upheld by the courts.

Combined Investigatory and Judicial Functions. In recent years the immense expansion of the discretionary power of administrative authorities over persons and property has caused alarm in the minds of certain people who have feared or claimed to fear the setting up of a new dictatorship. They have pointed out that the great independent regulatory commissions, including even such a long-established body as the Interstate Commission, enact the roles of both prosecutor and judge. This is the situation, for example, when the Interstate Commerce Commission gathers evidence against a railroad and then hears the case on the basis of that information.

Proposed Separation of These Roles. The President's Committee on Administrative Management, whose report is discussed later in this chapter, was concerned with this situation even before the days of the most severe criticisms of the National Labor Relations Board. Feeling that the "independence" of the regulatory commissions made for "a decentralized and chaotic" system of federal administration, the Committee recommended that the bodies in question be placed within a cabinet department, but that the functions of each should be broken down into two sections. The first would do quasi-judicial work independently of its department, as now. The second branch would undertake investigatory activities only and would have the status of a bureau within the department.² Congress rejected this proposal.

The Logan-Walter Bill. In the spring of 1941 Congress, apparently still believing in some method of curbing the federal administrative agencies, passed the Logan-Walter (or Walter-Logan)³ Bill. This laid down substantial qualifications on the right of certain administrative bodies to make final decisions in matters of *fact*.

¹ White, *op. cit.*, p. 32. Federal administrative tribunals are briefly described in Chap. XL, The Administration of Justice.

² *Ibid.*, p. 116. The pro and con arguments are too detailed and technical for this chapter.

³ Both designations are commonly used.

(There has never been any doubt about the power of the courts to hear appeals from such decisions on questions of *law* which may arise in connection with the acts of any administrator or administrative establishment.) The bill provided for "published notice and hearings before any rule affecting personal or property right could be issued."¹ It also laid down the requirement that findings of fact must be based on substantial evidence after a full and fair hearing had been accorded to all parties concerned. This would seem to have been eminently fair until an examination revealed that such older national agencies as the Federal Reserve Board, the Federal Deposit Insurance Corporation, the Federal Trade Commission, the Interstate Commerce Commission, and the Department of State were not subject to the provisions of the bill; while the Securities and Exchange Commission, the Federal Communications Commission, the Federal Power Commission, the Federal Security Agency, the Wage and Hour Division of the Department of Labor, and the National Labor Relations Board were not exempted and by that token were placed under the proposed regulations. To some observers it seemed as if these newer agencies were especially aimed at by those who thought of the courts as the last bulwark of American liberties.

In the course of Congressional debates opponents of the bill pointed out that it would place an impossibly heavy burden on the federal courts if they were compelled to say the final word about many of the thousands of cases decided each year by administrative tribunals.² However, proponents of the measure insisted that the National Labor Relations Board and the other agencies listed in the bill had been deficient in their regard for fair play and civil rights. Shortly after President Roosevelt's veto of the bill, a special committee which he had appointed some time before brought forth substantially the same recommendations as those previously made by the President's Committee on Administrative Management. Then both the prosecution and the defense "rested," but the case is bound to be revived again and again in different forms and various areas within the complicated field of administrative law.

¹ A. G. and N. T. N. Robinson, "Should Rulings of Federal Administrative Agencies Be Subject to Court Review?" *Congressional Digest*, XIX, May, 1940.

² See also Chap. XL, The Administration of Justice.

PERSONNEL

The Increasing Importance of the Public Service. The new fields of governmental activity, many of which require expertness, skill, and superior administrative ability, place ever heavier responsibilities upon administrative officers. The Federal government now finances a large portion of the relief load; it gives aid to farmers, banks, railroads, and insurance companies; and it controls more and more the financial and economic activities of our people. It aids the states and municipalities in many of their functions: education, road building, health work, recreation, social security programs, and many others. The public business is the largest business in the United States. According to the best estimates, the number employed in the public service is about 3,800,000. This constitutes from 10 to 12 per cent of those gainfully employed in the United States.

These new trends in government increase the responsibility of public employees, whose work is called "the public service." We must appreciate, then, the ever increasing importance of the public service. In a government such as ours there are three ways of getting a public office: by election, by political appointment, and by appointment under civil service. Legislators and such executive officers as contribute substantially to the determination of policy are elected. Administrative officers whose work involves participation in the determination of policy, those whose work is of a confidential nature, and judicial officers should possibly all be appointed outside the civil service. All others would come under the merit system.

The Merit System and the Public Service. For the first forty years under the Constitution (1789-1829) a permanent civil service seemed to be in process of development. From time to time political affiliations were considered at the time of appointment, but there were few removals for political reasons. Washington set a high standard at the beginning of our Constitutional system. Adams, however, let politics influence his appointments to such a degree that in a sense he may be called the "father of the spoils system." Jefferson tried to maintain parity between the parties in his administration. On the whole, it seems fair to state that from 1789 to 1829 a fine tradition of maintaining a high level of efficiency in the

Federal government was established. Removals from the service were, as a rule, made for just cause only; and it was, therefore, possible to develop during these years a civil service of some permanence and competence.¹

During these years and especially toward the end of this period, nonetheless, there was developing within the states and the local units of government the doctrine that "to the victors belong the spoils." When Jackson became President, he proclaimed a belief in the doctrine of rotation in office; and from his day to 1883 the spoils system was securely fastened upon the country. Efforts were made from time to time to correct the gravest abuses. In 1853 Congress tried without success to establish minor reforms by classifying certain positions and requiring candidates to pass examinations. Charles Sumner visited England and was greatly impressed by the reforms inaugurated in the British Civil Service. In 1864 he introduced a reform bill into the Senate, but it failed to pass. Following the Civil War, agitation became more pronounced. Civil service reformers, such as Congressman T. H. Jenckes of Rhode Island, John Bigelow, G. W. Curtis, and Carl Schurz, led the fight to obtain the passage of legislation which would improve the federal service. In 1871 Congress, at the request of President Grant, appropriated \$25,000 and established a Civil Service Commission; but the reformers and President Grant quarreled, Congress refused to continue the appropriation, and nothing was accomplished for the time being. The assassination of President Garfield in 1881 by a disappointed office-seeker led to the passage of the Pendleton Act in 1883. This Act, with its numerous amendments, is still the basis of the merit system in the federal service.²

The Extent of the Civil Service Today. On June 30, 1940, 725,000 federal employees were included within the merit system. That leaves some 250,000 still outside, although the Ramspeck Act of December, 1940, authorizes the President to extend the merit system to some 200,000 additional federal employees. Several states and cities, as well as a few counties, have made some use of the merit system. Four states — California, New York, Colorado,

¹ Leonard D. White, *Government Career Service*, University of Chicago Press, Chicago, 1935, Chap. 4.

² C. F. Fish, *The Civil Service and the Patronage*, Harvard University Press, Cambridge, Massachusetts, 1904. Also see Lewis Mayers, *The Federal Service*, New York, 1922.

and Ohio — have constitutional requirements that appointments be made on the basis of merit. Eighteen states in all, including more than half of the total population of the country, have merit laws, although in some of these states the laws are ineffective. About 867 cities, including all but a few with a population over 100,000, have merit systems. All counties in Ohio and New York and some few others provide for public service based upon merit. However, only about 25 per cent of all public positions in the United States are under the merit system. On the whole the merit system in the United States remains weak and rather ineffective. Much therefore remains to be done in both the Federal and the state governments as well as in the political subdivisions of the states.¹

The United States Civil Service Commission. *Purpose.* The fundamental purpose of the Pendleton Act, as originally enacted and later many times amended, is to establish in the parts of the services covered a system whereby appointments shall be made upon the basis of relative merit without regard to politics, religion, or other considerations. There is provision for open competitive examinations; appointment for those passing with the highest grades; an apportionment of appointments in the departments in the city of Washington, D. C. among the states and territories; provision for probation before final appointment; and prohibition of the use of official coercion to control the political action of any civil service employee. The act forbids the solicitation of political contributions from any civil service employee by any person in the federal service and prohibits the collection, by anyone, of political contributions in a public building.

Organization. Three members compose the Civil Service Commission, not more than two of whom may be from any one political party. One member acts as president. The Executive Director and Chief Examiner of the Commission is the chief technical and executive officer. He plans, directs, and controls the administrative work of all the divisions, field offices, and local examining boards, and otherwise serves as the chief consultant to the commissioners.

The work of the Commission is performed by the following divi-

¹ William A. Anderson, *Fundamentals of American Government*, New York, 1940, Chap. 21.

sions, the titles of which in most cases adequately describe the functions: Application Division, Certification Division, Examining Division, Service Record Division, Retirement Division, Statistical Division, Investigators Division, Personnel Classification Division, Research Division, Board of Appeals and Reviews, Communications Division, Accounts and Maintenance Division, Budget and Planning Division, and Information and Recruiting Division.

The Personnel Classification Division and the Research Division need further explanation. The former ascertains the duties and responsibilities of positions within the scope of the Classification Act of 1923 and allocates them into services, classes, and grades. It prepares and revises class specifications, gives titles to classes, and prescribes the standards, duties, and responsibilities of and minimum qualifications for each class.

The Research Division analyzes duties of positions and attempts to determine qualifications essential to their performance, and means of measuring these qualifications; it experiments with new-type examinations and develops standardized test materials and procedures; it studies and makes recommendations concerning classification and efficiency rating systems. It cooperates with the government departments and with universities, research foundations, and industries in efforts to improve the selection, placement, promotion, and training of employees.

The Commission administers the Civil Service Act of 1883 with all the amendments subsequently added, as well as the Retirement Act of 1920, the Canal Zone Retirement Act, and the Alaska Railroad Retirement Act. Examinations are held from time to time in many of the larger cities throughout the country through approximately 5000 local boards of examiners. The Commission also holds examinations in Puerto Rico, the Canal Zone, Hawaii, and Alaska, and assists the Philippine Civil Service Bureau. The Commission examined 855,872 applicants during the fiscal year ended June 30, 1940, and for this same year 106,325 appointments were made.

Analysis and Classification of Positions. Before employees can be wisely selected, their salary scales fairly determined, and their lines of promotion properly arranged, it is necessary to define the several positions in the various services with respect to the duties and responsibilities of each, and to construct a plan of classification which groups into each class those positions having similar duties

and responsibilities, so that (1) the same requirements as to education, experience, knowledge, and ability may be demanded of incumbents, (2) the same tests of fitness may be used to choose qualified employees, and (3) the same schedule of compensation is made to apply with equity under the same or substantially the same employment conditions.¹

The task of classifying the many different public positions is a gigantic one, and the work has never been done adequately or completely. Most of the positions in the federal service in Washington have been classified but many outside the capital have not. The states and cities sometimes call in outside experts to do this work when the task is too great for the Civil Service Commission. Government service, like private enterprise, is undergoing constant change, which makes the problem of classification a continuous one. Position analysts may at one time assign a position to a given class only to find later that it should be reassigned. It seems best that periodic audits be made for the purpose of reconsideration of positions previously classified, but this in itself is a tremendous task.

*Selection of Employees.*² A vacancy in the public service may be filled by promotion, by transfer, or by a new appointment. Whether promotion from within the service is desirable depends upon such factors as the size of the agency involved, the nature of the work, and the extent to which the government agency is a monopolistic employer of labor in the field. Appointment by transfer depends upon similar considerations. Good administrators recognize the value of "in-service" training and will prefer to promote from within the agency whenever it is possible to do so without lowering the personnel standards. A new appointment from outside the service is, of course, made when there is no qualified person within the government service to fill the vacancy.

*Types of Vacancies.*³ There are positions, such as that of typist, common to many agencies. Such positions can readily be filled by the competitive merit system administered by a central civil service commission. Other positions common to one agency only may be sufficiently numerous to make it desirable to fill the posi-

¹ L. D. White, *Introduction to the Study of Public Administration*, rev. ed., The Macmillan Company, New York, 1939, p. 330.

² Lewis Meriam, *Public Personnel Problems*, The Brookings Institution, Washington, D. C., 1938, Chaps. I, II.

³ *Ibid.*, Chap. II.

tions from registers of the Civil Service Commission. An illustration of this type of position is the postal clerk. A third type of position is one peculiar to a single agency or to a few and requiring but few persons. These positions are usually professional, technical, or scientific. In such cases the Civil Service Commission does not always have personnel properly trained to make or grade the tests needed for the selection of the applicants to fill the positions. Friction between the Commission and the administrators often develops because of this.

*Civil Service Examinations.*¹ Most civil service examinations in the United States are open, competitive, and assembled. However, in some cases the examinations are not open but limited to those already on the job and are "qualifying," not competitive. Some examinations are unassembled, that is, the persons taking them do not meet in a room to take the examination all at one time. In recent years the United States Civil Service Commission has given examinations of a more general nature to college graduates in an effort to secure persons of superior general administrative ability to fill positions as administrative assistants in many departments and commissions and to build up in the government a career service discussed elsewhere in this chapter.

Examinations are of many varieties: performance tests, short-answer test questions, oral tests, written tests, personal interviews, and others. Some use has been made of general intelligence tests, aptitude tests, and of tests that are intended to meet the needs of civil service commissions who are trying to select young people of superior general ability and character for the public service.

*Certification of Lists.*² The United States Civil Service Commission examines yearly more than 750,000 applicants. The New York City commission in 1937 examined 98,000. Other cities and some states examine thousands of applicants. From these applicants the civil service commissions certify the eligible lists. Preference is usually given to war veterans. In the national government a disabled veteran has ten points added to his score and any other veteran five points. From the eligible lists an appointing officer asks to have the right number of names certified by the personnel

¹ Lewis Meriam, *Public Personnel Problems*, The Brookings Institution, Washington, D. C., 1938, Chap. III.

² L. D. White, *Introduction to the Study of Public Administration*, Chap. 22.

agency when an appointment is to be made. In the national government the three names having the highest ratings are certified if there is one position to be filled. In some cities only one, the top one, is certified, while in other jurisdictions the four top names are certified. If only one name is certified the appointing officer, of course, has no choice; in the other cases he may appoint any one from among those certified, but he may not make his appointment or refuse to make it on the basis of religion or politics. It is possible, when more than one name is certified, to discriminate on the basis of politics, but that is rarely done in the national government.

Civil Service Provisions. *Tenure.* A probationary period, usually of six months' duration, during which time the appointing officer may remove without giving a reason, precedes permanent tenure. After the probationary period has been served, the employee receives indefinite tenure, after which he may be dismissed for cause only. Heads of departments and other appointing officers usually have the right of suspension for short periods of time but not of dismissal. In the national government the appointing officer may remove for any cause that will promote the efficiency of the service, provided he gives reason in writing to the person removed and gives the person an opportunity to reply. In the states and cities the right of appeal to the civil service commission or to the courts or to both is usually given. Protection against arbitrary removal is needed, but sometimes an administrative officer is placed in a difficult situation when an employee has been reinstated by a court or civil service commission which is in no sense responsible for the efficient and harmonious working of the department.

Compensation. Public employees in the lower wage and salary brackets are paid as well as if not better than employees in private industry. Those in the unions are usually paid union wages and they have in addition the advantages of regular employment with vacation and sick leaves and with pensions more substantial than those given to employees in private industry. Pay levels for public employees whose wages are not established by unions tend to follow those established by competition in private industry; with the qualification that rates of pay for public employees are much less flexible than those for employees in private industry. It is important to note also that wage and salary scales of public employees do not vary from very low to exceptionally high rates

as do those of employees in private industry. With the passage of the Classification Act in 1923 and the establishment of the Classification Pay Scale, the national government has corrected the great inequities in pay of employees of the national government.

Unions of Civil Servants. Public employees are organized today on a rather large scale into unions affiliated with the local, state, and national union organizations. Recent federal legislation forbids national administrative officers and employees or state or local officers or employees receiving any federal aid to take any active part in political campaigns. It will be difficult for public employees organized into unions to refrain from political activities in matters concerning the welfare of labor, and on occasions when labor unions actively participate in campaigns. One would expect leaders of unions composed of public employees to be favorable to efficient public service and moderate in pressing the demands of the group. The right of public employees to strike is a subject of considerable controversy.

Retirement. Retirement of disabled employees or of those whose efficiency is greatly lessened because of age or otherwise is desirable both from the standpoint of administrative efficiency and from the standpoint of the welfare of the employees. Adequate retirement allowances, based on the needs of those retiring and supported by assessments and contributions fully adequate to maintain the system, and administered by capable and honest officials, are regarded as sound personnel practices for all civil servants.

Abuses of Civil Service. Party leaders look upon patronage as one of the main sources of party strength. They will not concede that they cannot find qualified partisans to fill the positions in the public service. They believe that party patronage is essential to a strong, vigorous party. Parties are fundamental in a successful democracy; therefore, political leaders see no escape from patronage. On the other hand, the civil service reformers and the organized civil service stand together in demanding an extension of the merit system. They see the grave consequences which have resulted from spoils politics in the past and see dire consequences in the future unless the merit system is extended.

The depression, with its millions of unemployed, has increased the conflict between the champions of the merit system and the political leaders. The pressure for jobs exerted by the unemployed

on political officeholders has been extremely severe. On the other hand, those persons already on permanent tenure and their champions, the civil service reformers, have been aroused by what they have considered an attack upon the merit system. Through their organizations and unions the public employees have opposed political interference and have tried to protect their own interests against encroachment by politicians. The conflict which results from the growth of a strong bureaucracy is ever present between these two groups. Often such a bureaucracy is unwilling to cooperate wholeheartedly with those responsible for the formulation of policy, especially when there is a radical or sharp change in policy, such as that which occurred with the inauguration of the New Deal. We are told that one of the great trials of the German Republic was due to the unbending attitude of the bureaucracy which had been built up under the Empire and which was, therefore, not in sympathy with the ideals of the Republic. The leaders of the Republic found that they could not get along without trained personnel; yet they found great difficulty in getting along with them. Similarly, in this country the bureaucracy has been accused of refusing to go along with the ideals and policies of the administration.

Suggestions for Improvement of Civil Service. The President's Committee on Administrative Management made several recommendations for the improvement of the merit system. They recommended first that "the merit system should be extended upward, outward, and downward to include all positions in the Executive Branch of the Government except those which are policy-forming in character." This recommendation has been applied by the President to some 150,000 additional federal employees, bringing the total up to 725,000. The Ramspeck Act of December, 1940, provides for extending the merit system to include about 200,000 additional federal employees.

A second recommendation was for the development of a real career service through sound and constructive personnel administration. It was recommended that since the great majority of the highest positions in the federal service are not policy-forming, they should therefore be placed under the merit system. This would greatly increase the morale of the whole federal service and give incentive to the recruitment of superior talent in the lower positions.

A third recommendation was that a civil service administrator be substituted for the three-man commission. It was thought that a commissioner trained in personnel work would be able to improve the service by centralizing, unifying, and vitalizing the personnel management. It was recommended that a civil service board composed of seven nonsalaried members be appointed by the President with the consent of the Senate for overlapping terms of seven years. Their duties would include the following: (1) to guard the merit system and to represent the interest of the public in the encouragement of improvement in personnel administration; (2) to provide for a special board of examiners to examine candidates for the office of civil service administrator whenever there is a vacancy, and to certify to the President the highest three on the list; (3) to advise the President on plans and procedures for handling difficult employment questions, to propose amendments to rules for the administration of the civil service, and to criticize amendments proposed by the administrator; (4) to make special investigations, to make annual and special reports to the President and Congress on the status of personnel administration, and to propose amendments to the civil service laws; (5) to act in an advisory capacity on matters of personnel administration upon the request of the President or the administrator; (6) to study and report upon the relation of the Federal Civil Service to the merit system in the states and the local political subdivisions of the states, especially in cases where there are federal grants-in-aid; (7) to help foster interest in personnel administration in universities, colleges, and in professional, business, and labor organizations.

A fourth recommendation concerned the salary policy of the government. As already indicated, government employees in the lower brackets are well paid compared with employees in private business. It is in the higher brackets that the salaries are low in comparison with those of similar rank in private industry. It was recommended that the salaries of heads of departments, under-secretaries, and assistant secretaries be placed at \$20,000, \$15,000, and \$12,000, respectively. It was recommended that salaries in the highest grades of the career service range from \$12,000 to \$15,000, and those in the next lowest grade from \$8000 to \$10,000.

Finally, it was recommended that the Classification Act be extended to include those persons in the field service and some of

those in the departmental service and in some of the governmental corporations now exempted.¹

Associate Justice Stanley Reed of the United States Supreme Court has suggested that in each state a state-wide civil service register be made available to all local units of government.² He pointed out that many local units of government are too small to maintain efficient personnel boards. Spoils politics too often determines the local appointments. The best politicians are beginning to recognize, however, that good politics demands efficient government officials. State registers would make possible an adequate supply of capable applicants for recruitment and promotion on the basis of merit. Such a state-wide register would encourage more capable persons to enter and to remain in the service of the state. Justice Reed emphasized the suggestion, often made, that the universities and the learned societies could materially improve the government service by encouraging capable young men and women to enter it.

Under an Executive Order of June 24, 1938, a personnel director has been provided for each department and independent commission of the government of the United States, and these directors together compose the Federal Council of Personnel Administration. The function of each director is to provide such service training as is approved by the head of the department after consultation with the Civil Service Commission. The plans of each personnel director are subject to criticism by the Council of Personnel Administration. It is anticipated that great improvements will be quickly realized in the federal service through this new plan of personnel work. Similar in-service training might well be provided for every large city and every state.

Much may be done to raise state and local standards through the use of federal grants-in-aid. In fact, a very significant beginning along these lines was introduced in August, 1939, when an amendment to the Social Security Act placed upon the Social Security Board the obligation to see that the states, the two territories — Alaska and Hawaii — and the District of Columbia establish and

¹ President's Committee on Administrative Management, *Report with Special Studies*, Government Printing Office, Washington, D. C., 1937, pp. 1-15.

² Stanley Reed, "Improving the Civil Service," *Vital Speeches*, pp. 27-29, Oct. 15, 1939.

maintain minimum personnel standards based on merit in order to receive federal grants-in-aid.¹ Similar standards are now being adopted by the states as a precondition for receiving federal aid for health and unemployment insurance services. There would seem to be other opportunities to make use of these federal grants-in-aid to encourage states to extend the merit system in many other fields of government, state and municipal.

The Expert in Government. Recognition of the need for the expert in government is not new, although his exact position and his function are moot questions. Our problem is to find the proper use of the expert in a democratic state. Jacksonian democracy was devoted to the equalitarian doctrine, which stresses the view that virtually any citizen can fill any office, although at no time during Jackson's administration were all experts dismissed from the services of the state.

The expert in government has assumed greater prominence in recent years for two reasons: (1) the old *laissez-faire* concept of the function of the state is being abandoned, and we are coming to think of the state as an instrument for the promotion of the good life; and (2) the social order is becoming more complex, and gives rise to increasing friction. The state, in order to promote the good life — the general welfare — must remove or investigate by a process of social engineering the conflicts that arise out of the social and technological complexities.²

There is considerable difference of opinion on the extent to which the expert is needed. Some want to raise the expertness of all officials by requiring rigid qualifications for all offices — legislative, judicial, executive, and administrative. Others emphasize the use of the expert only in administration. Recent years have seen an increasing influence of the experts in all functions of government and on all levels — national, state, and local.

The Expert in Administration. It is in the administrative field that we find the greatest concentration of experts. The trend toward the increased use of the expert in public administration is exemplified by the growing army of federal employees under the

¹ Harry Marsh, "Merit System for the States," *Survey Midmonthly*, 76: 160-162, 1940.

² "Expert," *Encyclopedia of the Social Sciences*, The Macmillan Company, New York, 1937.

merit system, the professionalization of education throughout the United States, and the widespread recognition of expertness in government as indicated by the adoption of city-manager governments in some 450 cities.

We find at Washington entire bureaus manned by specialists. The Bureau of Animal Husbandry in the Department of Agriculture, for instance, employs some 450 specialists. The Bureau of Standards in the Department of Commerce is manned by highly trained technical specialists. The War and Navy Departments are similarly staffed. Who but experts could do the conservation work in the Department of the Interior? The Rogers Act sought to make a place for career men in the Department of State to provide experts in the field of foreign affairs.¹

These are only a few of the outstanding recent developments, but as the problems of public administration become more complex it will be increasingly necessary to employ persons with scientific training and knowledge. Maintaining a balance between expert service and popular control is one of the great problems of democratic states. If efficiency be made the end of the state, however, and if lay control be lost in the effort to increase efficiency, then democracy is destroyed.²

The Need for Career Men in Public Administration. At the head of the civil service, but subordinate to the political officials, is a group of administrative officials whose work is of the highest importance. It is the duty of these administrators to supervise, direct, coordinate, and plan "for more effective performance of work or for wiser formulations of policy."³ In order to attract and hold such experts in administration it has been recommended that they should be made permanent officials. To improve public personnel it has likewise been suggested that inducement be offered to promising young men and women to come into the service, and that they be encouraged to seek promotion to these highly important administrative posts.

Training for Public Service. To prepare properly for the public service has become a problem of importance. Many uni-

¹ M. D. Hall, "The Expert in Government," *The Annals of the American Academy of Political and Social Science*, pp. 91-100, Sept., 1933.

² Marshall E. Dimock, *Modern Politics and Administration*, Chap. 15.

³ L. D. White, *Government Career Service*, University of Chicago Press, Chicago, 1935, p. 22.

versities and colleges have greatly expanded their courses in public-service training. Some give elementary short courses of immediate practical importance, while others give advanced courses intended to prepare students for some of the more important positions in the administration of city, state, and nation. Apprenticeships and internships have been made available in limited numbers. A number of institutions and the National Institute of Public Affairs at Washington have been experimenting with this idea.

Much has been done in recent years to offer in-service training to those entering and those already in the public service. The purpose of such training is to improve the performance of the present work and to prepare the persons for better positions. Many plans for such training are being tried. In some cases a new employee is turned over to an experienced one for a time for instruction in his duties. A series of lectures and inspection trips may be given to a group of new recruits to give them a general view of the field in which they are to work. New employees may be assigned to different divisions for short periods of time until they become acquainted with many phases of the work. Short courses of full-time instruction may be offered to entering employees. The Graduate School of the Department of Agriculture at Washington is devoted to the task of improving the work of the department by giving extensive courses of an economic and scientific nature to any qualified student from any department or any college in the country. Some universities make fellowships available to men in public service enabling the holders to take leaves of absence from active service to spend a year in further study, after which they return to the public service. In-service training is being offered to local government employees through the efforts of municipal leagues in such states as New York, Minnesota, Kansas, and others. Through the efforts of the New York Conference of Mayors a Municipal Training Institute has been created under the direction of the Regents of the State of New York. The Federal government aids those training for the public services under the George-Deen Act of 1936. The municipal leagues of New York and Michigan have taken advantage of this aid to promote in-service training for municipal employees in those states. Increasing efforts to give training to public employees will, no doubt, help to raise the standards of the public service.

ADMINISTRATIVE CONTROLS

Controls and Public Welfare. Andrew Jackson was neither the first nor the last observer of or participant in public affairs to perceive that too much security in a governmental position seems to cause many an officeholder to lose his initiative, do a minimum of work for a maximum of pay, and treat the public with indifference or hostility. Moreover, when officialdom, collectively known as a "bureaucracy," becomes corrupt, arbitrary, and autocratic while attempting to perpetuate itself in office, it is time for the people to make servants of would-be masters. The fact is, of course, that public employees, because they must exercise the powers of controlling or coercing the citizenry, have to bear more than a fair share of opprobrium. But any bureaucracy, be it ever so efficient, honest, and conscientious, must constantly be kept responsible to the people if democracy is to endure. To bring this about many types of control, ranging from the noncoercive to the strongly coercive, have been devised. More significantly, on the basis of the source from which they come, controls may be classified as internal and external. The former are exemplified by staff and other reports, planning, budgeting, accounting systems, and auditing.¹ But from the point of view of public welfare the latter are much the more important of the two. These external devices may be classified into three groups.

Legislative Controls. The first category consists of those imposed by the legislative branch of government. The lawmaking body must in a sense act as a board of directors of the public corporation. It must create departments of government, determine the methods of choosing their heads and employees, prescribe their powers and duties, and lay down the limits within which these powers and duties may be exercised. Failure to meet the last-mentioned responsibility may result in the delegation of too much legislative power to the executive,² as illustrated by the unconstitutional NIRA codes. Thereafter the continuing responsibility of administrators to the representatives of the people is enforced by legislative criticism of their acts and reports.

¹ Space is lacking for a discussion of these. Some, like planning, budgeting, and auditing are treated elsewhere in other connections. See Chap. XLIII, Public Expenditures, and Chap. XLV, Planning.

² See Chap. XLIV, Constitutional Reform and Social Progress.

Appropriations and Investigations. Two other means of legislative control may now be mentioned. The first is the financial. Through this "power of the purse," administrative bodies may be left without lawfully appropriated funds; they may be hampered by minute budget specifications; or by the legislature's increasing or decreasing appropriations their tendencies toward expansion may be encouraged or discouraged.

Finally, legislative investigations, which are common in Congress and in state legislatures, can serve as a wholesome check on administrators. This is probably true in spite of certain well-known shortcomings of these investigating committees, such as the "whitewashing" or exonerating of their supporters or party and the "smearing" or condemnation of enemies; "witch-hunting," or seeking a person who embodies an alleged evil and can be used as a "scapegoat"; and "playing to the galleries," to make "political capital" or to receive personal publicity.

Judicial Controls. In addition to those already discussed, the courts have several methods of controlling administration. One is the enforcement or nonenforcement of a law after its constitutionality has been tested; a second is the entertainment of suits brought by private individuals against public officers; and a third is the issuance of certain writs,¹ among which three are the most significant: A writ of *quo warranto* requires an official to show by what right he occupies his office. The *mandamus* commands a public officer to perform some duty imposed upon him by law. The *injunction* directs an individual or group to refrain from an act he or it has started or threatened to perform to the detriment of some other person or agency. On the whole the courts will carefully protect private rights against the encroachments of public officials.

Popular Controls. Last but not least of the controls are those of a popular nature. They include such forces as public opinion, political parties, pressure groups, elections, and the recall. In addition, two developments of recent years are citizens' advisory committees and research bureaus, which have generally had a beneficial and wholesome influence on officeholders. Their aims are two: (1) to keep the public employee honest and industrious; (2) to maintain a sympathetic and close relationship between the bureaucrat and the public he serves.

¹ An order issued under the seal of a court of law.

Why are these goals not always reached? One answer is supplied by Professor E. Pendleton Herring, who writes:

Private interests demand honesty in government and at the same time seek privileged treatment for themselves. They demand economy and efficiency in government, and yet a chance for "honest graft" is seldom neglected.¹

Along with a reasonable amount of ordered liberty, capable, honest, and responsible public administrators are among the chief needs of a modern democratic society like our own. Social intelligence and social ethics are still too undeveloped to cope with this problem. Yet it must be solved if "government of the people, by the people, and for the people shall not perish from the earth."

ADMINISTRATIVE REORGANIZATION

Administrative Confusion. Somewhere in the United States there is a "house of mystery" built by an eccentric millionaire. Each wing of the huge mansion, which is really a rambling group of buildings, has seemingly been added without rhyme or reason, and has its own unique architectural style. Some of the additions and outlying structures are hardly connected with the rest, while others are joined together by secret doors and passages. This is a picture of many of the various administrative establishments of American governmental bodies.

The State Picture. Turning first to administration within the states, one finds a host of state and county agencies which cross, duplicate, and overlap. Many offices support a horde of "pay-rollers" (not merit employees) whom the public cannot dislodge. In many of the states the executive branch is a vast medley of elective officials, board or commission members, and minor employees, seemingly responsible only to their own consciences and their political party.

The Federal Situation. In contrast to the state systems the federal administrative establishment shows a much more unified system and more concentration of authority, leadership, direction, and supervision in the hands of the chief executive. Yet even here many services have been, especially before the recent reorganization plans went into effect, either in the wrong department or divided among several departments. Thus the Treasury Department, with

¹ Herring, *op. cit.*, p. 14.

its Coast Guard, Secret Service, and so on, has been called a "jigsaw puzzle of unrelated parts."¹ There is also the classic illustration of former Secretary Redfield, who pointed out that Alaskan bears were "regulated" by three cabinet departments. The ordinary citizen can become hopelessly lost in trying to find his way among the civilian and defense offices in Washington.²

State Reorganization as Typified by Illinois. In 1910 the then Governor Charles E. Hughes of New York recommended that the organization of the executive department of the state be simplified in the interest of economy and efficiency. But it was Illinois that took the lead in administrative reorganization and was more or less imitated by New Jersey, Michigan, Wisconsin, Ohio, Tennessee, New York, and Pennsylvania.³ The experience of Illinois is typical enough to be of value in appraising that of several of the other states.

The Constitution of Illinois vests the "supreme executive power"⁴ in the governor. However, up until the First World War he was only "first among equals," of state officers who like himself were elected by the people. His was a cabinet in name only. Since the Constitution was adopted state functions had been expanding almost as rapidly as had those of the national government. In the absence of a centralized control of administrative affairs, the state administration developed grave defects, such as duplication of activity, lack of cooperation, and general inefficiency.

In 1917, under the stimulus of the wartime needs for efficiency and economy, Governor Frank O. Lowden brought about the passage of the Civil Administrative Code. This statute, as amended in 1919, 1925, 1933, and 1941, furnished to several other states a model for administrative reorganization, according to such basic principles as executive responsibility, the consolidation of functionally related administrative agencies into a small number of key departments, civil service reform, and the improvement of financial administration.

Illinois "Code" Departments. Accordingly after several changes, some one hundred independent establishments were grouped into

¹ Robert Phillips, *American Government and Its Problems*, Houghton Mifflin Company, Boston, 1937, p. 343.

² See Harry F. Byrd, "The Failure of Our National Defense Program," *The Reader's Digest*, 33: 20, Nov., 1941.

³ Walker, *op. cit.*, pp. 78-84.

⁴ Article V, Section 6.

eleven "code" departments, with a director nominated by the governor and confirmed by the state Senate for a four-year term. These officials now have charge of the Finance, Agriculture, Labor, Mines and Minerals, Public Works, Public Welfare, Health, Insurance, Registration and Education, Conservation, and Public Safety departments. With such elective executives as the governor, lieutenant governor, the secretary of state, the auditor of public accounts, the treasurer, the superintendent of public instruction, and the attorney general, they share the major functions of state government. Critics of this system would go farther in the direction of centralization by making the last-mentioned group constitutionally appointive rather than elective, as is the case now. They would also place such more or less independent bodies as the Illinois Tax Commission and the Illinois Commerce Commission under the jurisdiction of some administrative department. Generally speaking, administrative reorganization in Illinois has not met the expectation of its advocates. This comment might also be applied to certain other states.

Reorganization of the National Administration. The full story of the efforts to streamline the vast national administrative machine is too long to be retold here. Perhaps the best comparatively brief approach would be to list and to comment upon the proposals of the President's Committee on Administrative Management which were transmitted to Congress in a special message on January 8, 1937.

Recommendations of the Committee. Aside from the suggestions to extend and improve the merit system discussed above, it was advocated that the White House staff should be expanded to give the President six new secretaries "with a passion for anonymity." Also, a National Resources Planning Board was to be reconstituted from the National Resources Committee. Both of these proposals were approved and put into effect. Another suggestion was to strengthen such managerial arms of the President as the Director of the Bureau of the Budget. This is being carried out.

A comprehensive twofold provision of the Committee's report was to increase the number of executive departments from ten to twelve, the two new ones to be a Department of Public Welfare and a Department of Public Works; and to assign about 130 independent agencies, administrations, authorities, boards, and com-

missions to the twelve cabinet departments. This proposal was defeated amidst cries of "dictator," in spite of the well-known facts that it would bring about the fuller coordination of the national administration; that a Department of Public Works had been recommended in 1921 and one of Education and Welfare had been suggested in 1923; and that former Presidents Wilson and Hoover had been given powers to inaugurate reforms similar to those called for in the report.

The final proposition was to abolish the office of comptroller-general, since President Roosevelt had said that the comptroller-general had illegally assumed the preaudit function — that is passing on the advisability and legality of expenditures before they are made — and to install an auditor-general who would be responsible to Congress and would have postaudit powers only. This proposal was defeated.¹

The 1939 Reorganization Act. Finally, after a great deal of controversy, Congress passed the Reorganization Act of 1939, approved April 3, 1939. This law provides that the President may at any time submit to Congress proposals for the reorganization of the federal administrative agencies, which shall be effective sixty days after transmittal, unless Congress by a concurrent resolution disapproves them within that period.

Between April, 1939, and June, 1940, the President sent to Congress five comprehensive plans, together with certain other scattered recommendations.

Plan Number One. The first recommendation, that of April 25, 1939, was devoted to the reorganization of the independent offices. It suggested the creation of three great federal agencies, each to be supervised by an administrator appointed by the President with the confirmation of the Senate at a salary of \$12,000 per year. Since Congress did not disapprove of the plan, the Federal Loan Agency now consists of such lending establishments as the Reconstruction Finance Corporation, the Federal Housing Administration, and the Home Owners' Loan Corporation; the Federal Security Agency contains the Office of Education, the Public Health Service, the United States Employment Service, the National Youth Administration, the Civilian Conservation Corps, and the Social Security

¹ President's Committee on Administrative Management, *Administrative Management in the Government of the United States*, p. 46.

Board; and the Federal Works Agency includes the Public Roads, Public Buildings, and Public Works Administrations, the United States Housing Authority, the Work Projects Administration, and other units.

Plan Number Two. The second plan of May 9, 1939 dealt with interdepartmental reorganization. It successfully called for such features as the abolition and transfer to the Department of the Interior of the functions of the much-criticized National Bituminous Coal Commission; the abolition of the Bureau of Insular Affairs in the Department of War and the transfer of its duties to the Division of Territories and Inland Possessions of the Department of the Interior; the transfer of the Bureau of Fisheries from the Department of Commerce to the Department of the Interior; the transfer of the Biological Survey from the Department of Agriculture to the Department of the Interior; the transfer of the Foreign Agricultural Service from the Department of Agriculture to the Department of State; the transfer of the Bureau of Lighthouses from the Department of Commerce to the Coast Guard in the Department of the Treasury; and the transfer of the Inland Water Highways Corporation from the Secretary of War to the Department of Commerce.

Plan Number Three. The third plan became effective on or about June 2, 1940, after a resolution disapproving the proposal had been adopted by the House of Representatives. Inasmuch as the Senate did not also disapprove it, the recommendation went into effect after the lapse of the sixty-day period required by law. Some of the features of the plan included the consolidation of the Bureau of Fisheries and the Biological Survey (both having been transferred to the Department of the Interior according to Plan Number Two) into the Fish and Wildlife Service; the abolition of the Federal Alcohol Administration and the transfer of its functions to the Bureau of Internal Revenue; the discontinuance of the office of Recorder of the General Land Office in the Department of the Interior; the consolidation of the Division of Marketing and Marketing Agreements of the defunct AAA and the Federal Surplus Commodities Corporation into one agency, the Surplus Marketing Administration of the Department of Agriculture; and the establishment as a distinct unit of a Fiscal Service in the Department of the Treasury, to be under the supervision of a newly authorized official, the Fiscal Assistant Secretary.

Plan Number Four. Plan Number Four became effective on or about June 10, 1940. Its principal feature was the changing of the name of the Civil Aeronautics Authority to the Civil Aeronautics Board and, what is more important, the transfer of the functions of this formerly independent establishment to the Department of Commerce. Also, the Air Safety Board was abolished and its functions transferred to the Civil Aeronautics Board. These changes evoked a controversy which will be noted later. Other aspects of the plan were the transfer of the Food and Drug Administration from the Department of Agriculture to the Federal Security Agency, and the transfer of the Weather Bureau from the Department of Agriculture to the Department of Commerce.

Plan Number Five. Plan Number Five was promulgated early in June, 1940. Its principal feature was the transfer of the Immigration and Naturalization Service from the Department of Labor to the Department of Justice.

During the time that has elapsed since the last-mentioned plan went into effect, the present administration has been creating a national defense and war organization, which, as will be seen, has been and is being largely built up in the President's office by executive orders rather than by legislative fiat. The President has recommended the transfer of the administrative duties of the CCC from the War Department to the Federal Security Agency, and the merger of the NYA with the CCC. In the future other recommendations will doubtless be made to enhance the country's war efforts.

Some Federal Reorganization Problems. All students of public administration are aware that plans of reorganization are not always ideal: (1) because a given bureau can with equal logic be located in several departments; (2) because employee and other vested interests protest against any change which affects them adversely; and (3) because politicians in and out of Congress are always ready to capitalize on real or alleged mistakes of the administration. Illustrations based on the plans should be helpful in reviewing much that has gone before.

In the first place the three great agencies set up by the first plan were really designed as substitutes for the two new departments — Social Welfare and Public Works — which the President's Committee on Administrative Management had proposed and which

Congress refused to sanction. As another illustration one might note that the abolition of the National Bituminous Coal Commission in Plan Number Two was largely the result of the protests of coal operators who disliked the price-fixing activities of the Commission. Again, current concern over fifth-column activities and criticism of the Secretary of Labor's alleged tenderness toward alien labor organizers were to a considerable extent responsible for the chief feature of Plan Number Five, that is, the transfer of the Immigration and Naturalization Service from the Department of Labor to the Department of Justice. However, the renaming of the Civil Aeronautics Authority, the placing of the new-old Civil Aeronautics Board under the Secretary of Commerce, and the abolition of the Air Safety Board, deserve separate mention.

This proposal, even though disapproved in the House of Representatives, went into effect after the Senate had refused to disapprove it. Amidst the currents and countercurrents of controversy that swirled about the measure there were several charges and countercharges. (1) For example, it was alleged that the Civil Aeronautics Authority, during its independent existence, had supervised air commerce in an efficient and nonpolitical manner. Putting the Civil Aeronautics Board into the Department of Commerce would, it was claimed, subject it to "politics." (2) Those favoring the plan stated that all the independent offices, including even the respected Interstate Commerce Commission, helped to make the national administration unwieldy and irresponsible, and that they should be placed under the supervision of the cabinet secretary directly responsible to the President. (3) It was said that the abolition of the Air Safety Board would result in an increase in aviation accidents. (4) It was charged that certain air pilots and stewardesses had conducted a lobby in Washington in order to defeat the CAA transfer. This example illustrates the fact that neither administrative reorganization nor any other type of governmental business takes place in a nonhuman, nonpolitical vacuum.

NATIONAL DEFENSE BEFORE 1942¹

A survey of the emergency national defense organization, though necessarily incomplete, should nevertheless be attempted.

¹ This section was written before the changes of 1942 partly relegated its present cense to the past.

Centralization in the President. All national defense administration is centered in the President of the United States, by virtue of the fact that the older agencies like the War Department and the special offices shown in Figs. 46, 47, and 48 are more or less directly responsible to him. This important fact has led some observers to speak of the President's desk as a bottleneck, because he cannot efficiently supervise and coordinate the gigantic defense organization while wrestling with the other weighty problems of state. Critics also point to the experience of President Woodrow Wilson, who found it necessary to make Mr. Bernard M. Baruch the chairman and general manager of the War Industries Board, the principal administrative organ for supplying the needs of the armed forces of the United States during the period of this country's participation in the First World War.¹

A forceful statement of the reasons for centralizing defence authority in the President is the following:

The direction of the national defense program cannot be taken away from the President; our Constitution makes him the single executive and commander-in-chief of the armed forces. Only he can exercise central direction over a national defense program which under modern conditions calls for the nation's united efforts. Every agency of the government must have a part in that program, and only the President of the United States can focus, direct and coordinate the entire executive branch in such an effort.²

National Defense Staffs. The emergency agencies are not operating organs, but are specialized staffs which assist and advise the chief executive in planning, directing, and facilitating the programs administered by the older governmental offices. Two exceptions are the Selective Service System and the Office of Export Control. The function of the former is well known. The latter has the duty of curtailing or prohibiting the shipment abroad of such necessary war materials as octane gasoline for planes and scrap iron. However, the War Department procurement section still lets contracts, while the Surplus Marketing Administration and not the Lend-Lease Administration buys foodstuffs for Great Britain.

¹ Carl Brent Swisher, "The Control of War Preparations in the United States," *American Political Science Review*, 34: 1085-1103, Dec., 1940. See also Randall B. Kester, "The War Industries Board, 1917-1918; A Study in Industrial Mobilization," *American Political Science Review*, 34: 655-684, Aug., 1940.

² William Dow Boutwell *et al.*, *America Prepares for Tomorrow*, p. 47. Much of this work is now being done by Donald M. Nelson and his War Production Board.

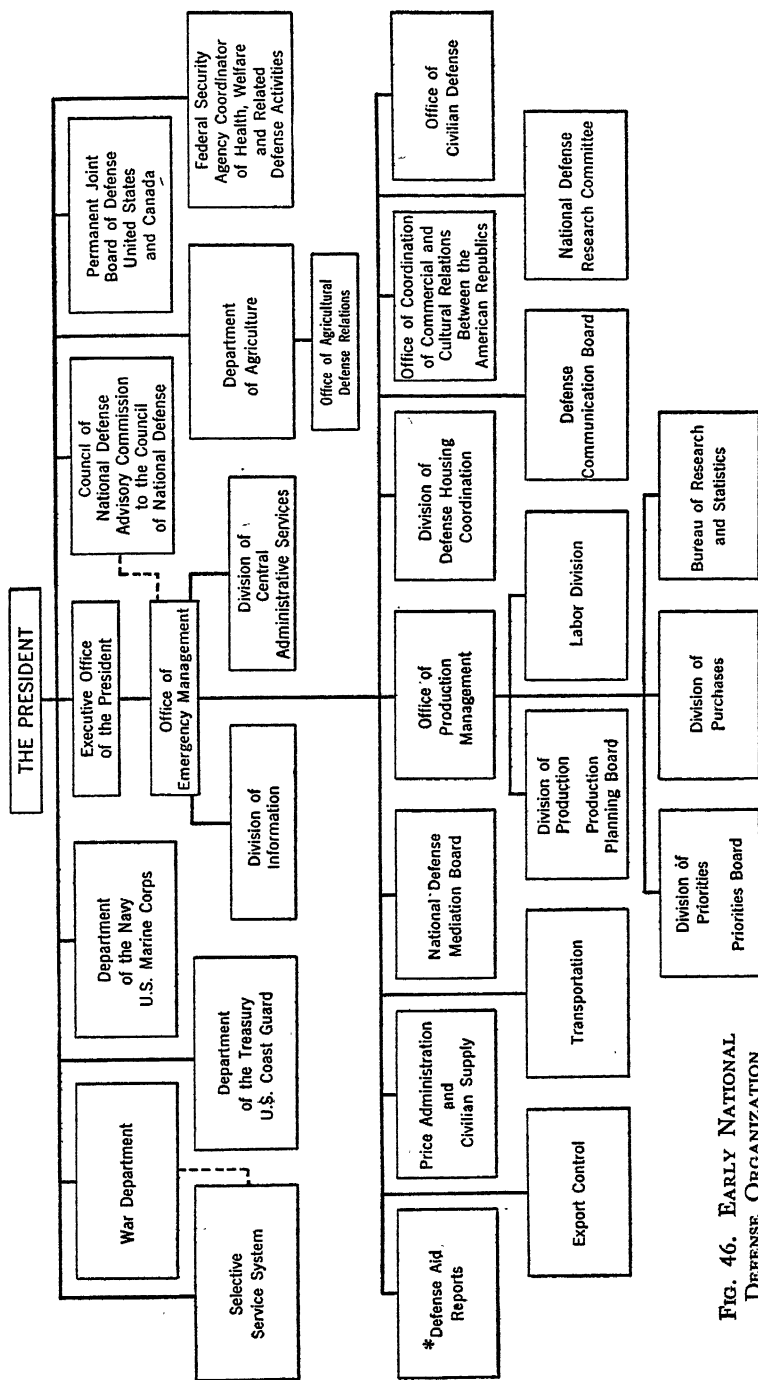


FIG. 46. EARLY NATIONAL
DEFENSE ORGANIZATION

From William Dow Boutwell *et al.*, *America Prepares for Tomorrow*, Harper & Brothers, New York, 1941, p. 39. Note: This chart does not include the Economic Defense Board and certain other defense offices. See Fig. 48.

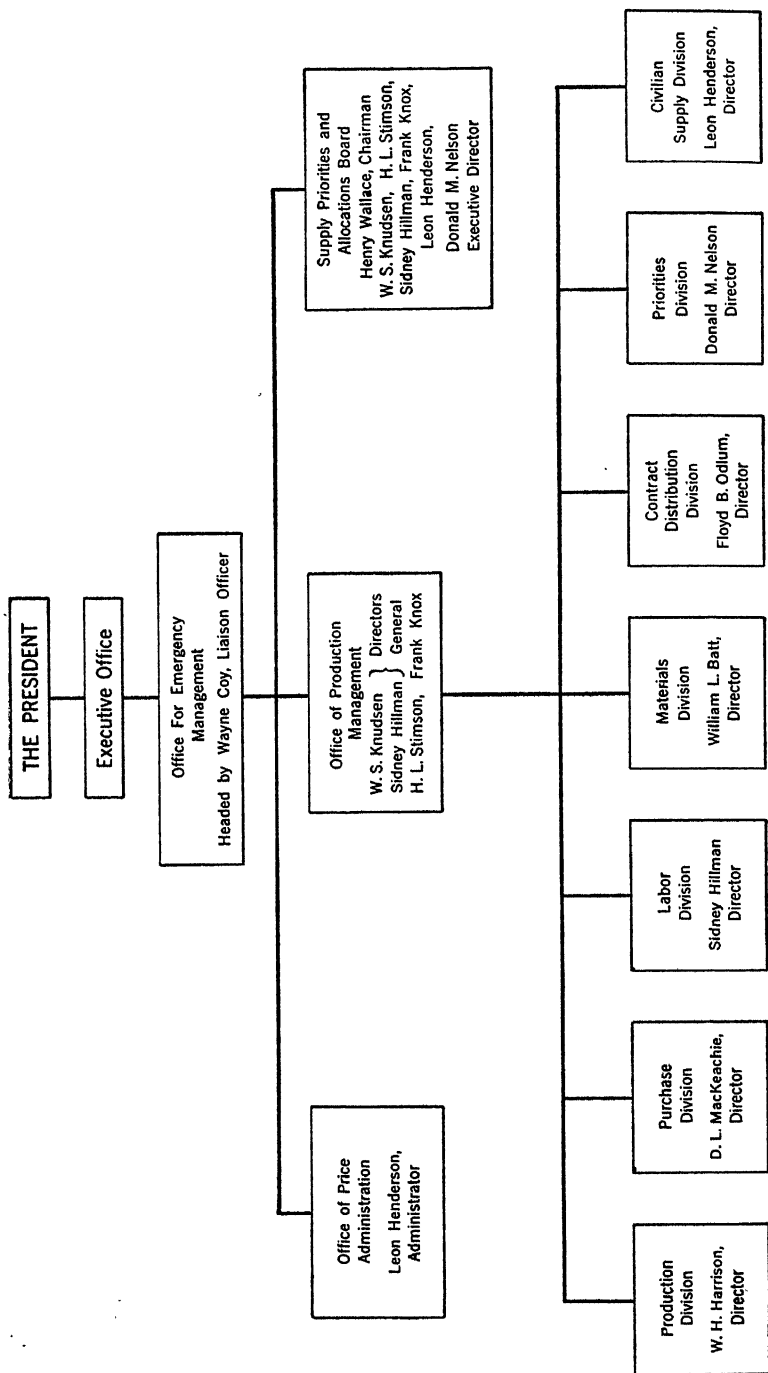


FIG. 47. HOW ARMAMENT AGENCIES STOOD AFTER RESHUFFLING (August 28, 1941)
From the *Chicago Tribune* of September 25, 1941.

OEM. A glance at Figs. 46 and 47 will reveal why the Office for Emergency Management (OEM), set up by the President in May, 1940, has been described as "the top holding company for the defense organization." Its chief duties are to provide the President with information relating to defense work and to maintain contacts between the President and the Council of National Defense and its Advisory Commission. The Council investigates and makes recommendations with regard to land transportation facilities, military supplies, seagoing transportation, and the stepping up of the domestic production of goods required by the Army and Navy.

OPM. But on the Office of Production Management (OPM),¹ created by presidential executive order on January 7, 1941, falls the chief burden of surveying the requirements of both the War and Navy departments and the foreign governments which are to be sent food and munitions by the Lend-Lease Administration; of assuring an adequate supply of raw materials; and of stimulating the production of defense goods. An important task of the OPM is to watch for and eliminate bottlenecks caused by a lack of essential materials or skilled mechanics and machine tool workers. Its Labor Division is especially interested in transferring workers from civilian to defense industries, and in training or retraining programs. Its Division of Priorities issues priority or purchase rankings in behalf of SPAB (see below). Also its Division of Contract Distribution endeavors to have large defense contractors give subcontracts to small firms threatened with ruin because they cannot procure supplies.

Some Staffs with Self-Evident Functions. When one continues to call the roll of the other defense agencies he finds several whose names reveal their functions. Some examples of those shown in Fig. 46 are: Division of Information, Division of Transportation, Division of Defense Housing Coordination, Office of Defense Health and Welfare Services, and the Defense Communication Board. One could hardly guess that the Office of Defense Aid Reports (see Fig. 46) takes care of the work of the Lend-Lease Administration.

OCD. There may also be some uncertainty about the work of the Office of Civilian Defense (OCD), or the (former) Office of Price Administration and Civilian Supply (OPACS). The OCD,

¹ Abolished early in 1942 upon the establishment of the War Production Board.

under the guidance of Mayor La Guardia of New York, is among other things developing numerous plans for minimizing the losses of property and lives in the event of enemy attack.

OPACS and OPA. Before the last change in personnel, the OPACS (see Fig. 46) under Mr. Leon Henderson wrestled with the grave inflationary menace of a rising price spiral under the impact of the Lend-Lease and defense programs. Also it determined how raw materials left over after military-naval and Lease-Lend needs had been satisfied should be distributed among civilian industries. On August 28, 1941, the OPACS was divided into the Office of Price Administration (OPA), with Mr. Henderson as Price Administrator and the Division of Civilian Supply in the OPM, with Mr. Henderson in charge, but as a subordinate to Mr. Knudsen.

Priorities. As stated above, the Priorities Division in the OPM has the important duty of determining the time order in which the government and private industries can secure vital raw materials. The rankings are collectively known as "priorities." The Federal government has given itself absolute priority with respect to aluminum, steel, manganese, and many other commodities. Among the criticisms heard of this system are: (1) Small firms assigned low priority rankings because they are not doing defense work or for some other reason are faced with extinction,¹ which means a temporary if not a permanent rise in unemployment.² This seems bound to take place to some extent in spite of the efforts of the OPM Division of Contract Distribution described above. (2) The government is accumulating "stock piles" of steel and other materials far in excess of its needs.

SPAB and Allocations. These and other shortcomings of priorities help to account for the changes of August 28, 1941 (see Fig. 47), chief among which was the setting up of the Supply Priorities and Allocations Board (SPAB), with Vice-President Henry A. Wallace as chairman, with Mr. Donald M. Nelson as executive director, and the other personnel listed in Fig. 47. This organization is charged with the *allocation* or allotment of the resources of the United States to four categories of need: military, defense (includ-

¹ A publicist states that "raw materials starvation" is constantly being heard in Washington. See Frank G. Hanighen, "Defense Begins to Hurt — War Production Priorities and the Little Men," *Harpers Magazine*, 183: 562, Nov., 1941.

² "Already the phrase 'priority okies' is being coined." *Ibid.*, p. 568.

ing lend-lease), civilian, and economic warfare. After the government has earmarked its total requirements, civilian supplies are allocated for automobiles, railroad cars, buildings, and so on. Then priority certificates are issued by the Priorities Division of the OPM. It is thought that the allocation or division of raw materials on a quota basis will help prevent the "hoarding" of supplies by some users; that it will be the basis for a fairer distribution of materials available for civilians; and that it will enable the government to plan increases in the production of commodities needed for defense, while curbing more effectively than now civilian consumption for nonessential purposes.

EDB. The words "economic warfare" in the last paragraph bring to mind the Economic Defense Board (EDB). One of the functions of this organ, whose chairman is Vice-President Henry A. Wallace, is to weaken Axis economic influence in Latin-American countries by blacklisting firms importing for the benefit of Germany and Italy articles or materials necessary for American national defense.

Future Defense Plans. Lack of space forbids an adequate description of many other federal defense plans and agencies. For example, there are the National Defense Mediation Board, which grapples with labor controversies that seemingly cannot be settled by the Conciliation Service of the Labor Department, and the Office of Facts and Figures, created October 25, 1941, in the OEM. This organization is charged with the duty of assembling information relating to national defense. No mention at all can be made of the state and local defense organs, which are constantly being set up.

BEGINNINGS OF TOTAL WAR ADMINISTRATION

Defense Agencies and the Second World War. The Japanese assault on Pearl Harbor on December 7, 1941, helped to transform the above-described defense organs into important partners of the Army, Navy, and America's allies in the waging of total war upon the Axis powers.

Production and Price Controls. This national emergency necessitated not so much changes in the administrative methods of these agencies as enormous increases in their tempo, scope of operation, and use of powers. Thus the Office of Price Administration and the Office of Production Management until their abolition

issued numerous orders requiring, among other things, the complete stoppage of automobile production, the rationing of tires, and the establishment of price ceilings.

WLB II. The National Mediation Board was replaced by a new War Labor Board similar to that of the First World War. This is to be a method of implementing President Roosevelt's pronouncement of December 27, 1941, to the effect that there

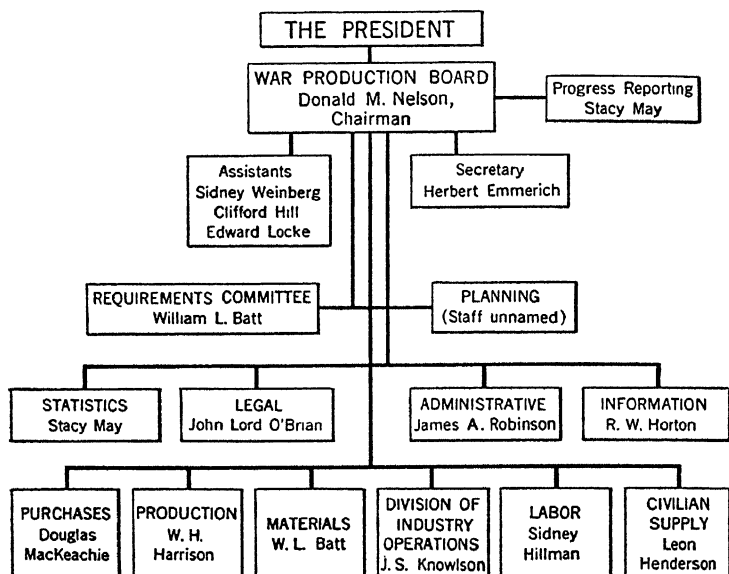


FIG. 48. REVISED SETUP OF THE NEW WAR PRODUCTION BOARD (JANUARY, 1942)

From the *Chicago Daily News*, January 22, 1942.

should be no strikes or lockouts during the war, and that all labor disputes should be settled by peaceful means.

The OCD. Reports aired in Congress that all was not going well in the Office of Civilian Defense led President Roosevelt, on January 10, 1942, to appoint Dean James M. Landis of the Harvard Law School to take charge of civilian defense personnel, and as the executive to administer policies developed by Director Fiorello H. LaGuardia and himself.

The "Big Three." At the beginning of 1942, the three outstanding figures in war production were: (1) Mr. Donald M. Nelson, Chairman of the War Production Board (see Fig. 48), in charge of the procurement and production of war materials; (2) Mr. William

S. Knudsen, now a lieutenant general supervising War Department production; and (3) Mr. Leon Henderson, director of the Office of Price Administration and also of the WPB Division of Civilian Supply.

Billions for War Machines, Men, and Ideals. In his message on the state of the Union on January 6, 1942, and in his budget message of January 7, President Roosevelt set as the goal of the nation's war efforts the production of hundreds of thousands of airplanes, tanks, and anti-aircraft guns in 1942 and 1943, while the shipyards were to build 18,000,000 deadweight tons of ships. In the next fiscal year alone these implements of war were to cost \$56,000,000,000, or more than half of the estimated national income. Inflation, staggering new income taxes, payroll levies, general sales taxes, and higher excess profit taxes seemed to be in prospect for civilians, while millions of soldiers, sailors, and marines were being trained to fight in every part of the globe.

TERMS TO BE UNDERSTOOD

administration	ladder of responsibility
administrative direction	legislative advice
administrative review	legislative aid
allocation	line and staff
bottleneck	mandamus
bureaucracy	merit system
career men	ordinance (executive order)
center of decision	personnel administration
centralization	pre- and in-service training
civil service	pre- and postaudit
coordination	priority
decentralization	quasi-judicial
delegation of authority	quasi-legislative
discretion	<i>quo warranto</i>
functional principle	red tape
grant-in-aid	span of control
hierarchy	staff
injunction	unified command

QUESTIONS FOR DISCUSSION

1. To what extent does the city-manager form of government approximate a solution of the problem of combining popular control with expert administration?

2. The United States Department of Agriculture is generally rated as among the best of governmental agencies. Explain.
3. Some cities, like Milwaukee, have boards at the heads of their police departments. Is this in accord with, or in violation of, the best administrative theories?
4. As the chief administrator of the national government, the President of the United States has at his beck and call line, staff, and auxiliary agencies. Cite illustrations of these from this chapter or some other source, and explain why you so classify them.
5. What have been some of the criticisms of the National Labor Relations Board bearing on public administration?
6. Outline the principles and practices of administration illustrated in the organization for national defense and war.
7. How do priorities and allocations affect the average small businessman and his employees?
8. In our governmental system expert administrators must have security of tenure; yet too much security creates a bureaucracy dangerous to democracy. How would you deal with this dilemma?
9. Would you favor promoting men from the civil service to head departments?
10. Are not "experts" and "democracy" contradictory terms?
11. Does not the Jacksonian theory of rotation in office harmonize with the Jeffersonian declaration that "all men are created equal"?
12. Is too much emphasis upon efficiency dangerous to democracy?
13. How would you harmonize the need of efficiency in a complex society with the necessity of maintaining parties in a democratic society?
14. What are the elective offices in your state, county, and city? What are the appointive offices in your state, county, and city? What are the positions filled through civil service in your state, county, and city? What changes in this system would you recommend? Why?
15. It is stated above that public administration in war differs from peacetime administration in tempo and scope rather than in principle. Explain and give illustrations of the truth of this observation.

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THE ADMINISTRATION OF JUSTICE

Cultural Matrix of American Justice. The administration of justice in the United States is significantly affected by that vast complex of things, ideas, ideals, and social forces which we call "American culture." This consideration led Dean Roscoe Pound to write,

tradition, education, physical surroundings, race, class, and professional solidarity, and economic, political, and social influence of all sorts and degrees make up a complex environment in which men endeavor to reach certain results by means of legal machinery.¹

Since this machinery is operated by thousands of visible and invisible hands which often pull against one another, an observer is not surprised to find it functioning poorly or not at all.

"It is not too much to say," said President Taft in 1909, "that the administration of criminal law in this country is a disgrace to our civilization, and that the prevalence of crime and fraud, which is here greatly in excess of that in European countries, is due largely to the failure of the law and its administration to bring criminals to justice."²

If, as so often appears to be the case, justice does not always prevail in our society, the innocent are not always protected and the guilty always punished, we must look to the complicated process by which our ideas and ideals of justice are translated into specific social action. This process involves rules, institutions, and men, and the end product is not always what was intended.

People v. Hines. Thus there was much debate among laymen as well as lawyers about the *mistrial*³ declared by Justice Pecora of the

¹ Roscoe Pound, "Criminal Justice in the American City — A Summary," *Criminal Justice in Cleveland*, Part VII, The Cleveland Foundation, Cleveland, 1922, p. 3.

² Chicago speech, September, 1909. Quoted in *The Reform of Legal Procedure*, by Moorfield Storey, Yale University Press, 1911, p. 3; also quoted in Raymond B. Fosdick, *American Police Systems*, The Century Company, New York, 1920, p. 28.

³ "A trial which is erroneous on account of some defect in the persons trying. . . . Where a jury is discharged without a verdict, the proceeding is properly known as a mistrial." John Bouvier, *Bouvier's Law Dictionary and Concise Encyclopedia*, 3rd rev. by Frances Rawle, Vernon Law Book Company, Kansas City, Missouri, 1914, Vol. II, p. 2234.

New York Supreme Court in the case of the *People v. Hines*. The critics of Justice Pecora's decision condemned as legally questionable and socially undesirable what they thought was the legal hairsplitting which gave temporary¹ freedom to a powerful politician-racketeer who had already been proved guilty of the crimes with which he was charged. Defenders of the decision tried to show that the judge was only protecting the rights of the defendant by throwing the case out of court when a question by the prosecutor seemed to imply that Mr. Hines was guilty of crimes other than those specified in the indictment; also that if the case had later been reversed by the New York Court of Appeals and a new trial had been necessary, the taxpayers would have been put to additional expense. They pointed to the ancient saying among the gentlemen of the bar to the effect that it is better that ninety-nine guilty men escape than that one innocent man be punished.

THE NATURE OF COURTS

Our conception of justice is to a large extent determined by our laws. The social institutions that we associate most closely with our laws, their interpretation and enforcement, are the courts. The courts in the United States have a dual role; on the one hand they enforce the law, and on the other hand they pass on the constitutionality of the acts of Congress and of state legislative bodies. In testing the constitutionality of a statute,² the judges engage in policy-making, for they decide whether a law passed by a legislative body shall prevail or not. In interpreting or enforcing the law, they are an administrative agency.

The American court system is complex. It consists of a large number of systems, one for the Federal government and one for each of the forty-eight states, within which are also county and municipal court organizations.

The Federal Courts. 1. There are the United States district courts, which are courts of original jurisdiction. They have the right to try a case in the first instance. In order that access to these tribunals may not be difficult, ninety-one district courts have been established in the country.

¹ The defendant was convicted after a second trial, and his sentence was upheld by the highest court of the state, which in New York is called the "Court of Appeals" rather than the "Supreme Court."

² A statute is a law established by act of the legislative powers.

2. The United States Circuit Courts of Appeals, of which there are ten, are courts of appellate jurisdiction, that is, they hear appeals from the district courts and review orders issued by the many federal administrative agencies, such as the Interstate Commerce Commission, the Federal Trade Commission, and the National Labor Relations Board.

3. The United States Supreme Court is the head of the federal judicial system. The present court consists of nine judges, but in times past its membership has varied from five to ten. Although the Supreme Court has original jurisdiction in certain cases, such as in cases affecting ambassadors, other public ministers and consuls and those in which a state shall be a party, for the most part its work is appellate. Cases come to this court when appealed either from a lower federal tribunal, or from the court of a state when a federal question, that is, one relating to the national Constitution, laws, or treaties, is involved.

There are also special federal courts, such as the Court of Customs and Patent Appeals, the United States Court of Claims, and the courts in the territories, dependencies, and the District of Columbia.

Federal Judicial Power. Federal courts have jurisdiction in those cases specified in Article III of the Constitution which states that the judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States and treaties made. State courts have jurisdiction over others. Some cases are tried in the federal courts because of their subject matter, and some because of the parties to the suits. Cases in which subject matter is involved are those that arise under the Constitution, laws, or treaties of the United States. They include any civil or criminal case in which federal powers are in question, such as those relating to interstate commerce, postal affairs, immigration, naturalization, patents, and bankruptcy.

The following are examples of cases in which the federal courts have jurisdiction because of subject matter: One corporation claims that another is infringing upon its patent and asks for a writ of injunction, that is, the former company requests the court to command the latter to refrain from doing certain acts. A writ is a command issued in the name of the state for the purpose of compelling the defendant to do something therein mentioned. The district court would have jurisdiction in such a case. To take

another example, if a Chinese boy born in the United States is refused admission into this country after a sojourn in China, the federal courts have jurisdiction.

Again, cases concerning interstate commerce go to the federal courts. For example, the National Industrial Recovery Act called upon owners of factories and mills, wholesalers, and retailers to draft codes of fair competition. These codes were to embody certain standards of maximum hours and minimum wages, to eliminate sweatshops, and to place a ban on child labor. The question of the constitutionality of the NRA finally was taken to the Supreme Court for review and the NRA was challenged in its entirety in the *Schechter Case*. The Supreme Court held that the codes were an unconstitutional delegation of legislative power and said, "it is Congress that enacts laws and not industry and the President."¹ The Court also held that the NRA was an attempt to invade the intrastate commerce power of the states.

An example of those instances in which the Federal courts exercise jurisdiction by virtue of the parties is that of cases involving diverse citizenship, that is, cases in which the plaintiff and defendant live in different states. Thus *A*, living in Indiana, has a claim against *B*, who lives in Ohio. If the case involves more than \$3000, and if the parties reside in different states, the federal courts have jurisdiction. If a controversy should arise between two or more states, the case would be tried in the Supreme Court, which in this instance has original jurisdiction. Thus a dispute as to the boundary line between Illinois and Iowa would be tried there. A case where the United States is a party is tried in the federal courts, for example the case of *United States v. Butler*,² in which the receiver for a Massachusetts cotton mill attacked the constitutionality of processing taxes levied through the Secretary of Agriculture to pay crop reduction benefits.

Cases in the district court, when appealed, as a rule, go to the Circuit Court of Appeals and then in some instances to the Supreme Court. To relieve the crowded docket of the highest court, the right of appeal was limited considerably by Congress when it passed the Jurisdictional Act of 1925.

¹ *Schechter v. United States*, 295 U. S. 495.

² 297 U. S. 1. In this case the AAA was declared unconstitutional. See Chap. XXVIII, Agriculture in the National Economy, and Chap. XLIV, Constitutional Reform and Social Progress.

Decisions and Opinions. A majority of the Supreme Court is necessary to reverse a decision of the lower courts; an even decision of the justices permits the judgment of the lower court to stand. The decision of the majority is embodied in an *opinion* that explains the line of reasoning by which they have arrived at their conclusions. Those who do not agree with the majority may write a *dissenting opinion*. It should be added that a *concurring opinion*, which is sometimes offered by a judge other than those who write the majority or dissenting opinions, arrives at the same decision as does the majority or minority, but by a different line of legal reasoning. These opinions are published regularly by the government in a series of volumes known as *The United States Reports*. Early in its history the court decided that it would not give advisory opinions in advance of a "test case," although some of the state courts do. The Supreme Court meets annually, beginning each year in October and continuing usually until about June.

Judicial Review. One of the most important functions exercised by the Supreme Court is the right of judicial review. Its role in policy-making and in social progress and in cases affecting the powers of the national and state government will be discussed in Chap. XLIV. The procedure in such instances is as follows: A is accused of violating a federal statute. He admits committing the act charged against him, but claims that the penalty should not be enforced because the law is unconstitutional and therefore invalid. If the court decides that the law is not in agreement with the Constitution, it will not enforce the penalty, and the law is null and void. This decision then becomes the final word upon this point unless the court should reverse itself, an occasional but not a frequent occurrence. One of the most violent controversies in our history concerning the Supreme Court took place when, after the first reelection of Franklin D. Roosevelt, the court declared much important New Deal legislation invalid. The President asked Congress to pass a law giving him the power to increase the number of members of the court. This plan was defeated, but the death or resignation of some of the members of the court gave the President an opportunity to appoint men whose interpretations he hoped would be more in accord with the social and economic needs of the times.

The State Courts. Although the forty-eight state court systems differ in many respects, there are many similarities in structure and

procedure. Most states have justices of the peace, who have jurisdiction in petty misdemeanors and perhaps minor civil cases.¹ Then there are municipal and county courts possessing original jurisdiction. After these trial courts come the intermediate and finally the highest courts of the state.

The state courts are independent of the federal courts and consider cases involving rights granted under the state constitution, the state statutes, the city ordinances, and the common law.² The decision of the highest court of a state is final unless a federal question as previously defined is involved, in which case recourse can be had to the federal courts.

State courts have jurisdiction in both civil and criminal matters. They try cases concerning marriage and divorce, employer and employee, contracts, corporations, partnerships, wills, real property, negotiable instruments, and many others. Millions of controversies are settled in these courts, varying from those involving minor offenses to the most serious crimes, and civil suits in which large sums of money are at stake.

Special Courts. In the more populous areas, more highly specialized courts have been established with a view to emphasizing the social rather than the legalistic aspect of adult and juvenile offenses. Courts of domestic relations have been created to deal more effectively with family desertion and nonsupport. In some localities there are special courts for women so that particular consideration may be given to their problems. Many of these have been established by the insistence of social workers, who believe that the needs of adults and children are more likely to be understood by judges who avail themselves of the services of psychiatric clinics and other scientific aids.

Noteworthy work has been done in the juvenile courts. The first juvenile court was established in Chicago in 1899 and the movement spread throughout the country. This court was designed to separate juvenile offenders from adult criminals, and to rehabilitate delinquent children. The law eliminates completely the criminal character of the procedure. The child is not tried for the

¹ Civil law relates to the private rights of individuals and to legal proceedings in connection with them.

² Common law is the system of law which prevails in England and in most English-speaking countries. It consists of customs and usage of people that courts have enforced.

commission of a crime and the finding is not one of guilt. The question at issue may be whether a parent, guardian, or custodian is fit to have the custody of the child. If the court finds that the child has committed an offense which has made him delinquent, or that the child does not have proper care even if he has not committed an offense, the court takes custody and approves another guardian, who may be a private person or the superintendent of an institution. The Juvenile Court in Chicago may legally take jurisdiction of boys up to the age of seventeen and girls to the age of eighteen.

Administrative Tribunals. More recently a new type of governmental agency has appeared — the administrative tribunal created by Congress — which has taken over an enormous amount of litigation formerly handled by the courts. It is a most important device and has come into existence because of the inadequacy of our tripartite form of government, in which powers are divided among the legislative, executive, and judicial branches. These administrative agencies embrace the three functions of government: rule-making, enforcement, and settlement of disputes. Our interdependent society has made it necessary for the national and state government to enter into new fields of legislation and also to create new law-enforcing agencies, such as the Interstate Commerce Commission, the Federal Trade Commission, the National Labor Relations Board, the Securities and Exchange Commission, Food and Drug Administration, National Mediation Board, Wage and Hour Division, workmen's compensation boards, and numerous others. These commissions exercise control over many phases of social and economic life affecting a vast number of business enterprises. They possess in many respects the character of business and labor courts. Such agencies issue thousands of rules and regulations, which cover many times the number of pages of laws passed by Congress. In their capacity as judicial bodies their decisions are much more numerous than those of all the federal courts.

Advantages over Courts. These administrative tribunals have many advantages over the regular courts. They are so organized that they bring experience, expertness, and continuity to major economic and social problems. They are able to maintain an uninterrupted interest in technical, economic, and social fields, thus making possible constructive planning for a long-run program. Many discussions and decisions require not only legal experience, but also an

intimate knowledge of industrial operations. "The judiciary cannot maintain a long uninterrupted interest in a relatively narrow and carefully defined area of economic and social activity."¹

Thus, for instance, the Interstate Commerce Commission, the oldest and one of the most powerful administrative agencies, deals with technical matters relating to railroads, trucks, buses, pipe lines, and relations between water and rail companies. It was established to protect the public against improper practices of transportation companies. It has the right to fix maximum rates and classify freight, to establish new lines and abandon old ones, to determine stock and bond issues, safety devices, train schedules. It provides a uniform accounting and reporting system. It supervises railroad holding companies and railroad organizations. All carriers in interstate commerce must register with the commission and new companies may not enter the field unless the Interstate Commerce Commission gives them permission by granting them a certificate of convenience and necessity. It makes rules and renders decisions. It exercises legislative, executive, and judicial functions.

Administrative tribunals in their exercise of quasi-judicial powers do not function merely as umpires, but they explore and act more as investigators in their field.

In settling controversies they are interested not merely in a decision among the parties but also in the direction of economic and social policies. They have greater access to the facts and can be better informed in all phases of the subject matter of the controversy than the regular courts, which in some instances assume that they are experts in matters of industrial health, engineering, railroad management, finance, and even bread-baking.²

In earlier days courts devoted considerable time to the trial of long and expensive suits for damages for personal injuries brought by employees against their employers. Workmen's compensation boards are now able to handle such litigation with much greater speed and with less cost to the litigants than was formerly the case. Many, however, who have been affected adversely by the decisions of these administrative agencies feel that they act arbitrarily, and that they should be curbed, because they are encroaching upon the powers of the judiciary. Attempts have been made to weaken these tribunals as shown, for example, in the vetoed Logan-Walter Bill.

¹ James Landis, *The Administrative Process*, p. 30.

² *Ibid.*, p. 155.

However, James Landis, Dean of the Harvard Law School, regards these administrative tribunals as the answer of this generation to the inadequacy of the judicial and legislative processes in meeting present-day problems.

Some Devices for Preventive Justice. Preventive justice means action by a judge or any other legally qualified official either to prevent cases from arising at all or, failing that, to adjust them out of court. Some of the means employed are (1) advisory judicial opinions or declaratory judgments; (2) private hearings among litigants in a judge's chambers; (3) conferences of conciliators or arbitrators to settle controversies by mutual agreement among the parties concerned. For obvious reasons, American society would benefit greatly from the increased utilization of all of these.

In a number of states the courts have the right to declare in advance of any formal litigation the manner in which documents affecting the private rights of persons are to be interpreted. These statements, intended to forestall litigation, are known as "declaratory judgments." For example, any person who is interested in a certain contract or deed, or any executor who wished to administer the terms of a will, may ask the courts to construe such a document without waiting for one of the interested parties to bring suit. The court then declares the rights of the parties, but does not order either to do anything.

If legislative bodies or administrative officers are uncertain as to the constitutionality of a law in some states, they may ask the opinion of the courts in advance. This is known as an "advisory opinion." Sometimes years elapse before the validity of a statute is questioned. In the meantime many persons may be affected adversely by the law. Advisory judgments make it possible to know in advance whether a law about to be passed is constitutional. Only a few states provide for this type of opinion from their courts.

Conciliation. There are still other methods of settling controversies outside a courtroom. Conciliation is a process by which a third party endeavors to secure an agreement between the two parties to a controversy without resorting to a law suit. In an informal proceeding a third person represents the state and explains the rules of law. In case one party refuses to abide by the decision, the agreement is not enforceable in the courts. If the controversy can be adjusted to the satisfaction of both parties, the conciliator draws

up an agreement, and it is signed, certified, and entered by the court as a judgment. Conciliation offers a means of friendly adjustment without recourse to the courts, and it can relieve them of many cases. It may take place between the parties without the aid of special court assistance. A number of states and cities have provided plans of conciliation. It is usually the result of mutual agreement, but some statutes provide that no law suit less than some fixed sum, such as \$100, may be brought until an effort at conciliation has been made.

Arbitration. Arbitration is a process by which the parties agree to refer their controversy to a third person and abide by his decision. It differs from conciliation in respect to the power of the representative of the court. The conciliator may strive only to bring the parties to an agreement. The arbitrator has been authorized in advance by both parties to decide the controversy. Resort to this device may occur either by the agreement of the signers of a contract that all disputes arising under it shall be settled by arbitration, or by the parties to a controversy agreeing after the dispute has arisen to settle their differences by this procedure. Practically every state has an arbitration law of some kind, which usually provides that once an award has been made, the decision will be enforced as a judgment of a court, providing the procedure was in accordance with the law.

Agencies for Federal Law Enforcement. The decisions of the courts do not enforce themselves automatically. To carry out their judgments elaborate institutions and procedures are required. The head of the federal Department of Justice is the Attorney General, who advises the government in legal matters and represents the United States in judicial proceedings. Assisting the Attorney General is the Solicitor General, who has charge of all government interests before the Supreme Court; then comes the Assistant to the Attorney General, who takes care of all matters of administration and personnel in the department, investigates candidates for office in it, and supervises the district attorneys and marshals. There are six assistant attorneys general, who head the divisions that are concerned with claims, taxes, antitrust matters, criminal cases, lands, and customs. In addition each judicial district has a district attorney with assistant district attorneys, totaling about five hundred, and more than one thousand marshals and deputies.

These officers supervise and conduct suits in which the United States is a party and prosecute any offenders against currency, postal, banking, commerce, revenue laws, or other federal statutes.

In the Department of Justice ¹ is found the Federal Bureau of Investigation, well known for the operations of its "G-men" against notorious kidnappers, murderers, bank robbers, and subversive interests. The FBI has forty-five field divisions located in key cities. At the head of each of these divisions is a Special Agent, usually either a lawyer, expert accountant, or a person with extensive law-enforcement experience. This Bureau supervises the operation of the Identification Division and the Technical Laboratories. Its jurisdiction extends over many violations of federal laws in which the United States is an interested party, such as the antitrust, bankruptcy, Motor Vehicle Theft, and White Slave Traffic acts. There are also among other agencies the Bureau of Prisons and the War Risk Litigation and the Bond and Spirits divisions. More recently there have been created the Civil Liberties and Commercial Fraud Units. The Civil Liberties Unit was created to study the Constitution and laws of Congress relating to civil rights with reference to present conditions, to make appropriate recommendations, and conduct the prosecution of violators of the provisions of the Constitution and acts of Congress guaranteeing civil rights to the individual. The Commercial Frauds Unit is to detect and enforce federal statutes relating to commerce or trade frauds such as those in connection with the federal mails.

In the Treasury Department is the Secret Service charged with the protection of the President of the United States, his family, and the President-elect at all times and under all conditions. This division is engaged in detecting counterfeiting and the forging of securities of the United States or of a foreign country. It investigates violations of the Federal Farm Loan Act and the Federal Deposit Insurance Act, watches for forgeries of government checks and thefts of government property, and investigates to establish the responsibility of bidders in government contracts. Here are also to be found the Bureau of Customs, the Bureau of Narcotics which enforces the Harrison Act, and the Alcohol Tax Unit. The Coast Guard constitutes part of the military forces of the United States. Its functions are discussed in Chap. XLI.

¹ See Chap. XLI, Public Safety.

In the Post Office Department is the Office of the Chief Inspector, whose duty it is to enforce laws relating to the post office, such as using the mails to defraud, sending obscene matter, explosives, and lottery tickets through the mails, embezzlement of postal funds, and forgery of money orders.

These many federal law-enforcing agencies have set a high standard of work. Overlapping and duplication, however, exist, since so many bureaus in different departments are responsible for enforcing the national laws, and in view of the fact that the various agencies sometimes fail to cooperate. Then too there may be conflicts of jurisdiction between the federal and state governments.¹ Thus some laws authorize two or more law-enforcing agencies to arrest for the same offense. Consolidation of some bureaus would bring about better administration in a field in which the activities are increasing at a very rapid rate. This is also true of state and local law-enforcing agencies.²

SOURCES OF LAW

Important sources of law in the United States are the constitutions of the United States and of the states, the statutes enacted by Congress and the state legislatures, and the ordinances of municipalities. Courts enforce the laws and the ordinances, rules, and regulations of administrative bodies which are consistent with the provisions in the written constitutions. The courts also recognize in some degree international law, treaties, and international practices.

Sources of Anglo-Saxon Law and Court Procedure. The great expanse of territory of the United States, its diversities of climate, resources, and population, and the federal nature of the Union all render vastly more complicated the American police and court systems than their counterparts in England and on the Continent. Nevertheless, when one surveys American trial court procedure in general, he finds certain unifying factors.

Common Law. These consist first of the English common-law rules of pleading and procedure that undergird the legal code of every state in the Union except Louisiana, which employs a body of Roman-French laws. Thus under the common law, if a guest

¹ *Ibid.*

² For these see Chap. XLI, Public Safety.

arrived at an inn with his baggage, since he was very much at the mercy of the innkeeper and his friends, the courts would hold the landlord liable if the guest suffered any loss of his belongings. The innkeeper was held as an insurer, but his liability has now been diminished by statute in most of our states. Again the courts ruled that when a woman married, all her possessions became the property of her husband. Also the common law provided that a married woman could not enter into a binding contract except for what the law regarded as necessities, and she could neither sue nor be sued. On the other hand, for her protection, she was entitled to *dower*, that is, one-third of the real property which her husband possessed during their married life. Although the common law continues to influence legislation and procedure in the United States, it has been modified considerably by statute. In Illinois, for example, either surviving spouse is entitled to dower rights.

Equity Law. Even before their importation from England, these legal principles and the decisions based upon them had become so crystallized that another system had to be developed to provide new remedies which the common law did not afford. Therefore, owing largely to the tendency of the courts to follow the rule of *stare decisis* ("Let the decision stand") or precedent, and the growth of certain inflexible common law writs, there arose the practice of appealing to the king's chief law officer, or Lord Chancellor, for a type of justice which new situations seemed to demand. The result was chancery, or equity law. This is applied today by the same American courts which on different occasions may employ the common law. For example, on Monday a court may bring in a judgment for common-law damages to an injured person; then on Tuesday it may grant an equity divorce without a jury trial; on Wednesday it may issue an equity writ of injunction which restrains an individual or a group of individuals from performing an allegedly harmful act; and on Thursday it may step out of the field of civil law into common-law criminal trial before a jury.¹

Civil Rights. Another common denominator of Anglo-American court procedure consists of all those individual rights and liberties which have become firmly imbedded in federal and state constitu-

¹ It should be stated that the jurisdiction of the more specialized American courts, especially those in cities, is often less extensive than this illustration would seem to imply.

tions and statutes. An illustration of these fundamental rights is the writ of habeas corpus. This is a judge's order requiring a jailer to bring an imprisoned individual before the court for an immediate hearing. Its justification is the old English legal principle that an accused person is presumed innocent until proved guilty. Like so many of the individual safeguards which might be described, this writ, which was originally a valuable shield for the British subject against cruel laws and royal tyranny and, in addition, a safeguard against illegal arrest or undue detention, sometimes becomes in the hands of certain American judges and lawyers a socially detrimental barricade behind which the "enemies of the people" crouch in safety. Also, the *innocence presumption* may impose an impossible burden of proof upon the prosecuting officials. The civil rights enumerated in the first eight amendments of the federal Constitution and elsewhere are nevertheless valuable safeguards for the innocent, among them, indictment by grand jury, trial by jury, and right to a speedy public trial.

Civil Procedure. In civil cases the parties appear as private individuals; the plaintiff brings the suit, and the defendant defends. In a civil suit, if the plaintiff wins, he obtains a judgment which the defendant satisfies by paying money damages or surrendering property of some kind. In equity a decree is obtained which sets forth an order commanding or restraining the defendant. Jury trial in civil cases is usually guaranteed by state laws, but the parties may decline a jury trial and frequently do; and in some states a jury may be waived or relinquished even in a criminal case. Usually the jury's decision in a civil suit must be unanimous, but in some states a majority decision is sufficient.

Civil Trials. In the trial of a civil case, the government, speaking through the court, is merely an arbiter of a dispute between two private persons, one of whom, the defendant, has allegedly wronged the other, the plaintiff, who brings the action. Civil-law suits, while subject to many of the abuses of criminal trials, are probably on the whole more efficiently conducted. Three reasons for this, among others, are: (1) the average ability of opposing counsel is higher (some of the best lawyers refuse clients accused of crime); (2) political influences are minimized; and (3) civil trial judges and lawyers specialize to a greater degree.

AMERICAN CRIMINAL TRIAL PROCEDURE

Before the actual criminal court procedure is discussed the following words of caution should be set forth: the above-mentioned and below-described abuses of fundamental rights and liberties perpetrated by politicians, political judges, criminal lawyers, and "lawyer criminals" in behalf of the enemies of society do not, in the opinion of any serious student of the problems of American justice, justify the abolition of our constitutional safeguards, especially those which protect poor, weak, or friendless persons who may be accused of crime.

The Arrest and Preliminary Examination. The rights of an individual suspected of crime begin with certain guarantees with regard to the issue of the warrant and the making of the arrest. Thus, with respect to warrants, Article II, Section 6, of the Constitution of Illinois reads in part: "No warrant shall issue without probable cause, supported by affidavit, particularly describing the place to be searched, and the persons or things to be seized." This is an almost exact copy of the latter part of the Fourth Amendment to the Constitution of the United States. In writing such a provision into the fundamental law, the founding fathers no doubt remembered the protests of James Otis against the writs of assistance, which were search warrant forms with blanks into which British officials could, in their own discretion, write names and places.

Arbitrary Arrest. Most safeguards against arbitrary arrest have been laid down in court decisions rather than in constitutions or charters. Apparently the common law still permits a private citizen to arrest a fugitive from justice. This is an obsolescent survival from ancient times when the injured person redressed his own wrongs, or friends and relatives acted in his behalf. (In England today the victim of a crime or other private individuals may hire counsel to assist the prosecution.) At this point it may be said that a policeman is also in a sense a judge and jury¹ at one and the same time, for he has much discretion with respect to making arrests. He knows that in some instances he needs a search warrant. He may, of course, arrest at sight escaping criminals, or detain stolen goods which are being carried away. However, bribes may keep him from "seeing" violations of the law. Then, too, the knowledge

¹ See also Chap. XLI on Public Safety.

that he is personally liable for false arrests often makes him feel that discretion is the better part of valor.

Preliminary Hearing. Following as soon as possible after an arrest and detention, there comes a preliminary hearing before a United States Commissioner in a federal offense, or otherwise a magistrate, who may be a justice of the peace in a country district or a municipal court judge in a town or city. The examining judge may set the accused person free, or he may punish him by a fine or imprisonment or both in a local penal institution, if the evidence presented by the policeman who has apprehended him, and other witnesses, seems to prove that he has committed one of the lesser crimes, known as "misdemeanors." If, on the other hand, the magistrate believes that the type of serious crime called a "felony" has been perpetrated, he cannot convict the accused but must bind over the offender to await the action of the grand jury.

Bail. From the time of the filing of the formal charge the friends of the apprehended person may secure his release from detention through the signing of a bond and the scheduling of property, with the understanding that the bond will be forfeited if the accused does not appear when he is wanted for trial. This institution is called "bail." The judge may refuse bail in capital offenses calling for the death penalty where the presumption of guilt is strong. While the granting of bail is theoretically justifiable on the ground that an individual should not be punished by imprisonment before he is proved guilty, in practice it has developed such grave abuses as the scheduling of worthless property and the "shady" tactics of the professional bondsman, whose exactions may impoverish the relatives of the accused, or may induce the latter to raise "defense money" by committing new crimes.

Remedies. Remedies for these and other evils which have been spawned by the bail system as it is administered in American courts might include the following: (1) the refusal of bail to professional criminals or to persons who have been previously convicted of a felony; (2) an increase in the penalties against accused persons or their bondsmen who swear falsely as to the value of their property or as to any encumbrances upon it; (3) the requirement that professional bondsmen secure their licenses from a state agency, as in New York; and, above all, (4) the creation of a central bail bond authority with the duty of investigating and recording in behalf of

the courts the financial status of the bondsman and the criminal record of the accused in every case where bond is to be given. There is such a bureau in the office of the State's Attorney of Cook County, Illinois. Since 1927 the Municipal Court of Chicago has also had a bail bond branch.

The Indictment or Information. As mentioned above, a grand jury of from thirteen to twenty-three members examines the evidence against the "bound-over" person in the light of a detailed indictment or accusation of crime drawn up by the prosecutor. The proceedings of the grand jury, however, are not necessarily limited to those cases which have been begun before a magistrate. It may examine cases in which no arrest has been made, or even those which a judge has dismissed after a preliminary hearing. At all events, its deliberations are secret and *ex parte*, or one-sided, since no testimony in behalf of the accused is heard. After all, its task is not to determine whether the person is guilty or innocent of the offense charged, but merely to decide whether or not there is a *prima facie* case¹ against him. If the grand jury agrees that the evidence is strong enough to justify a trial, it finds the indictment to be a true bill. Otherwise it votes "this bill not found" or "no bill," and the alleged offender goes free.

Criticisms and Reform of the Grand Jury. Some states have abolished the grand jury indictment for all except the most serious crimes.

Historical evidence seems to indicate that the original purpose of the grand jury was to provide a method of initiating prosecutions by means of a group of the best men of the community. It gave the timid but well-intentioned person who had suspicions of a crime the opportunity to tell his story without danger to himself. Moreover, it permitted the consideration of a vast number of rumors, founded and unfounded, to be passed upon by a group of superior citizens. From this original high purpose the grand jury has come to be a group of men in the community, and frequently far below the average, who function under the dictation of the prosecutor. It is a mere rubber stamp for the prosecutor, and a means by which he is able to escape specific responsibility for his actions.²

After adding to this criticism the delays and inconveniences to witnesses which grand jury action involves, competent students of this "ancient grand inquest" usually advocate prosecution by

¹ A *prima facie* case is evidence sufficient to raise a presumption of fact unless rebutted.

² Raymond Moley, *Politics and Criminal Prosecutions*, p. 127. Reprinted by permission of the Yale University Press.

"information." This differs in no way from an indictment except that it is an accusation of crime made by a qualified public officer on his oath rather than by a grand jury. Prosecution by information for misdemeanors now takes place in nearly all municipal courts; and there is no good reason why it should not be extended to all felonies except those which entail the death penalty. Yet, it must be admitted that grand juries are still valuable agencies for investigating situations and voting indictments when widespread crime and corruption seem to prevail, when examining magistrates too readily free accused criminals, and especially when prosecutors fail to perform their functions.

The Pleading, the Prosecution, and the Trial. After his indictment a prisoner is given an opportunity to plead "guilty" or "not guilty." Should he choose the first alternative, a trial will be unnecessary, and the judge will proceed to impose a penalty, which is frequently a lighter sentence than would follow conviction after the trial that a pleading of "not guilty" necessitates. Sometimes this action has been preceded by an express or implied agreement between the judge and the prosecution on the one hand and the defense on the other, the terms of which understanding may be that in return for a plea of guilty — often to an offense less serious than the one charged — the accused will be treated with leniency. This "justice by compromise," as Raymond Moley calls it, is difficult to defend.

The Petit Jury. For the trial it is necessary to impanel a petit jury from a list compiled according to lot by the sheriff or by special commissioners. The counsel of both sides is permitted to challenge the seating of jurymen, the exercise of which right often causes long delays and other abuses. The jury is a time-honored Anglo-Saxon institution, about which an interesting, but in some respects shoddy, tale may be told. Legal history shows that the first English petit juries were witnesses familiar with the facts. In truth, because of the large number of exemptions of professional and other people from jury service, and for other reasons, juries are now sometimes not only ignorant of the case but ignorant as well. The tendency of American juries to yield to the emotional pleas of the defense counsel, especially where attractive women criminals are concerned, is well known. Robert Phillips records the case of an Indiana murderess of her husband, who was set free during the Christmas

season because her attorney eloquently portrayed the abounding joys and the happy spirit of the Yuletide.¹

Trial Jury Reforms. In the effort to eliminate these and other defects of the trial jury which might be mentioned, certain states, like Maryland, allow the waiving of jury trials in all but capital offenses; or they permit the use of fewer than the common-law number (twelve) of jurors and the arrival at a verdict by a large majority, such as nine, rather than by a unanimous vote. Perhaps the most commonly suggested remedy is that practically all such exempted classes of people as doctors, lawyers, and teachers should be required to serve, a measure which would increase considerably the intelligence of the average jury. The evidence of the effect of admitting women to jury service is not conclusive; but in all probability it has raised the educational level of the jury considerably above what it was before such a duty and privilege was legally accorded to women. Moreover in some states provision is made for the so-called blue-ribbon juries composed of persons of known ability.

There is as yet no entirely acceptable substitute for the petit jury. It shares the responsibility for grave decisions with the judge, and sometimes acts as a common-sense corrective for the narrowly specialized judicial mind. Above all, it is, as an English jurist puts it, "the greatest democratic institution invented by man."²

The Taking of Evidence and Its Abuses. After the jury is sworn in, the court is ready for the introduction of the evidence, the weight of which the jury decides. The problem of securing proper and adequate evidence in an American court is extremely difficult. Common-law rules in this field are very puzzling to a layman. For instance, he learns that hearsay evidence is not admissible unless it be the statement of a dying person and then only if he be the direct victim of the crime.

The bribing of witnesses by the defense and the perjury of witnesses (false testimony) are crimes which are hard to detect. Also, witnesses may be honestly mistaken as to what they have seen; or they may be afraid to testify at all through fear of the defendant, especially if he be an influential gangster. During the delays

¹ Robert Phillips, *American Government and Its Problems*, Houghton Mifflin Company, Boston, 1937, p. 445.

² Quoted by Frances L. Wellmann, *Gentlemen of the Jury*, New York, 1931, p. 291.

occasioned by the trial procedure, their memories may grow dim or the witnesses may flee the jurisdiction of the court. To forestall this, to protect them from violence, or to prevent "fixing," the authorities may actually detain the witnesses while the accused is out on bail awaiting trial.

Finally, writers on the taking of evidence point to the abuses which arise from the employment of so-called experts by both prosecution and defense. It is no wonder that the public becomes bewildered when these people somehow manage to testify in behalf of the side which pays them to do so! Probably the most flagrant instance of this occurs when a murderer escapes punishment through the "insanity dodge," or a sham plea of insanity supported by a psychiatrist. The most obvious remedy is for each court to have its own staff of professional advisers.

Roles of Judge and Jury. The jury may be bewildered not only by conflicting evidence brought out by direct or cross-examinations, but also by the rulings of the judge as to the admissibility of "privileged communications" (such as those between lawyer and client), by confessions allegedly extorted by "third-degree" police methods, by the emotional appeals of both sides, and by the judge's charge to the jury. This last consists of an extensive summation of the law as to the offense with which the accused is charged, a definition as to reasonable doubt, a review of the evidence, and a discussion of the possible verdicts at which the jury may arrive. Following this verbal bombardment the jury retires, deliberates, and brings in a verdict. If this be "guilty," the judge either grants a new trial or passes sentence. The convicted person may be released on bail while the case is being appealed to a higher court.

The Prosecutor. Throughout the judicial process which has been described, the role of the prosecutor is exceedingly important. He may prosecute or fail to prosecute; he may dominate the grand jury, of which he is supposed to be only the adviser and counselor; he may bring about the conviction of his enemies and fail to institute proceedings against his friends; he may recommend to the counsel of the accused person a plea of guilty of a lesser offense than the one charged, the object being to escape the expense and uncertainties of a trial; and at any time before a trial he may issue with the court's consent a *nolle prosequi*, or "nol pros" ("I am unwilling to proceed"), a paper which usually eliminates a prosecution.

Worst of all, since the prosecutor in the county courts is elected for a short term, his office is definitely "in politics." He may be judged by the public on the basis of the number of convictions he obtains. (This is not the case in England or Canada, where the prosecutor is appointed for a long term or for life; or in France, where prosecuting attorneys must prepare for a public career and pass a competitive examination.) Hence, the American prosecutor may be guilty of disregarding certain rights of accused persons in the hope that he may be reelected "on his record" of convictions. How to make American criminal prosecutions nonpolitical is still an unsolved problem.

Trial Ordeal by Combat. Upholders of Judge Pecora's mistrial declaration, mentioned at the beginning of this chapter, have pointed to this as a justification for the maintenance of a defendant's rights in all their pristine vigor. The truth of the matter is that the "American sporting theory of justice" leads the public to think of a trial as a sort of medieval ordeal by combat, and to be ready to cheer whichever legal champion wins the joust.

By some strange perversion of justice we are ready to applaud the victorious attorney for his skill in securing acquittal of the guilty criminal and in voiding the rights of the citizen who is being wronged in property and liberty.¹

Carnival Justice. In the meantime sober fact and justice may fly out of the window, and find outside a "Roman holiday" being celebrated. Thus all Americans interested in the administration of justice with a calm, impartial dignity, even approaching that prevailing in English courts, will long recall with embarrassment the carnival at Flemington, New Jersey, in 1935, when the trial of the defendant in the Lindbergh case was being held. Within the courtroom certain participants in the proceedings showed that they were not unaware of the free advertising they were receiving. Outside the courthouse vendors hawked their wares amidst county-fair surroundings, movie cameras ground, and telegraphic instruments clicked. Spectators tried to climb through windows to see the accused, whom the newspapers designated by his first name, while trying his case long before it ever reached an excited and self-conscious jury. In such a mob atmosphere, justice cannot be impartial, and popular faith in the courts decays.

¹ Phillips, *op. cit.*, p. 445.

Appeals and Technicalities. Every trial judge desires to avoid reversals of his cases in courts of appeal. Supporters of Judge Pecora felt that he was compelled to throw the Hines case out of court because the district attorney's fourteen-word question was a *reversible error*. (This is a fault in the conduct of a trial so grave as to justify the overthrow of a lower court's decision by a court of appeal.) However, the Judge might have instructed the jury to "disregard the question" without running too much risk of reversal.

The fact remains that state and local courts are prone to over-emphasize technicalities.¹ These are "procedural forms prescribed by custom, by common or statutory law, by judicial rule, or even by the federal and state constitutions."² Trivial errors in indictments, as in the omission of the word "the," or in the conduct of a trial — errors which have no bearing on the merits of a case — have been seized upon by state appellate courts to justify their reversal of decisions of the lower courts, as the following instance illustrates. "A conviction in Delaware for stealing 'a pair of boots' has been reversed where the evidence showed that the defendant did not steal mates, but that both were for the same foot."³ Numerous other illustrations might be given. Students of jurisprudence know that technicalities were originally used in England to protect accused persons from too severe legal penalties. In the United States they are sometimes employed to screen criminals at the expense of society.

Reversals and Delays. A convicted malefactor often hopes for a reversal of his conviction in a lower court by a court of appeals, since that generally means that the case is ended and he goes free. His next "best bet" is the reversal and remanding of his case to the lower court for a retrial. He knows that this may never take place for a variety of reasons, such as the expense (this is a part of America's crime bill which taxpayers must shoulder), the disappearance of witnesses, and the growing cold of the evidence. Why should he not continue to have faith in the "law's delays," which have fought for him every step of the judicial process?

¹ Generally speaking this is not true of federal courts. A federal judge will push aside technical objections to an indictment and to the conduct of the various steps of the trial if he believes that justice will be served in spite of the minor errors.

² Phillips, *op. cit.*, p. 446.

³ Charles M. Kneier, *City Government in the United States*, Harper & Brothers, New York, 1934, p. 428.

It should be noted, however, "that a very small number of criminal cases are appealed at all."¹ Nevertheless, the disturbing thought arises that among this "very small number" are sensational cases involving persons of high social standing or wealth — cases the disposal of which gives the American public many of its impressions of the way in which justice is administered.

REFORMS WITH WIDE SOCIAL RAMIFICATIONS

The Selection of Judges. In the early history of the country, judges were chosen by the legislature or the governor with the consent of the upper house or the Executive Council. The Constitution provides that judges of the United States Supreme Court shall be appointed by the President by and with the advice and consent of the Senate. At present all federal judges are appointed by the President with the consent of the Senate.

According to the Constitution, "the judges, both of the Supreme and inferior courts shall hold their offices during good behavior and shall, at stated times, receive for their service, a compensation, which shall not be diminished during their continuance in office." Because of this kind of tenure, federal judges are free from political pressure and "entangling alliances." It is true that, by means of the appointing power, the President is potentially able to control the courts through the careful selection of men who favor his policies. Once, however, a judge has been appointed, little further control by the chief executive is possible. In fact, there have been many instances where federal judges have decided contrary to the policies of the President who selected them. Judges cannot be influenced by any threat, since they can be removed by impeachment alone, and then only for treason, bribery, or other high crimes and misdemeanors.

In order to remove the likelihood of judges continuing to serve when physically or mentally unfit, a voluntary retirement plan has been set up by Congress, which provides that after ten years of service a supreme, circuit, or district court judge may retire and draw a pension for the remainder of his lifetime. Federal judges as a body have very high standing among lawyers and are usually men of integrity and honor. The instances of corruption and improper conduct on their part have been few in number, but there

¹ Andrew A. Bruce, *The American Judge*, New York, 1924, p. 80.

have been some judges in the past and in recent years who have been impeached and tried or have resigned under fire. The record, however, of the judges in the federal court system for the most part provides a very bright page in the history of this nation.

State Judges. The selection of judges in state courts varies throughout the country. In four states, judges of the highest court are chosen by the legislatures. In six states, they are appointed by the governor, subject to confirmation by the State Senate. In thirty-eight states, judges are elected by the people. Throughout the country general dissatisfaction exists with the method of choosing them by popular vote. Yet it is no simple matter to devise a more satisfactory process. The work of the judiciary is technical; it requires men of character, training, and experience. An able vote-getter is likely to be more successful in being elected than one who is highly qualified and an expert in his field.

Judicial Elections. In many judicial elections the people have no real voice in the choice of judges. Each party nominates its slate of judicial candidates. If the election of judges takes place on the same day as a general election, a party victory means the election of all candidates of the party and the defeat of all its opponents. No matter how able a sitting judge is, or how excellent his record, if he is on the losing ticket he is defeated. Thus the people may be deprived of some of their ablest judges. Each party designates its candidates, and the nomination by the party in power means election.

If, however, the selection of judges takes place at a time other than the general election, presumably so as to take the judicial election out of politics, relatively few voters go to the polls. The expense of these special elections is heavy and the interest of the people regrettably low, partly because of the fact that it is difficult to create sufficient excitement about the election and partly because the average citizen, when confronted with a long list of judicial candidates, realizes he is not prepared to choose from among them, because he knows too little of their qualifications for office.

Other Methods of Choice. To avoid the defeat of sitting judges, coalition tickets are sometimes presented, that is, only one list of candidates is placed before the voter; this really means that the political parties make the selection and the voter has no real choice.

Many favor appointment of judges by responsible officers, namely, governors or mayors, or the appointment of judges of lower courts by the judges of higher courts. California, by an amendment to her constitution, provides for the appointment of judges by the governor, chief justice, attorney general, and one other judge. Near the end of the first term the judge, if he wishes to serve another term, has his name placed on the proper ballot. No opposing candidates' names are printed, and the voters indicate whether they are willing that he serve another term. This procedure permits the voters to retire a judge if they so desire. The plan has several advantages. The selection is made by responsible persons, but continuance in office remains in the hands of the people. Furthermore the judges do not find it necessary to engage in political activity to retain their positions; instead they rely on their own records as judges.

Thus various methods of nomination and selection are being tried. Despite the dissatisfaction with election by the people, the system seems firmly entrenched in the states, though there is general approval of the method of selecting federal judges by appointment.

Tenure of Office. From the standpoint of an independent judiciary, tenure of office is very important. Three types of tenure are in effect: (1) during good behavior, (2) tenure of years, and (3) during the pleasure of the appointing power. Of these the first type, used in the federal courts, has proved most successful in keeping the judges out of politics and in giving dignity and stability to their offices.

Structural Reform of the Courts. One of the well-known defects in the administration of justice is multiplicity of courts. It is generally believed that there are too many separate courts throughout the country. Chicago was one of the first cities to establish a unified city court. There is one Chicago Municipal Court with a chief justice and thirty-six associate justices. In order to administer its services more effectively, the court is divided into various branches, such as the Boy's Court, the Court of Domestic Relations, and the Court of Small Claims. In Cook County, Illinois, however, there is no such unification; instead there are five courts with their own calendars, five clerks, and a large number of bailiffs and other personnel. No unified county court is now

possible without a state constitutional amendment, but various suggestions designed to bring about cooperation among the courts have been made to remedy the situation.

Court Unification. A fundamental change to meet the problem of concurrent or similar jurisdiction is suggested by the unification of all of the courts of the state. This would mean a reorganization in which the existing courts would cease to be independent tribunals, but would become subdivisions of the one state court system. The judges would all be attached to this one court. It would mean that the entire system would be supervised and controlled by a judicial council. Administration would be more efficient. Judges would become more expert by having an opportunity to specialize in certain fields. In England the movement for unification of courts culminated in a law some years ago. In the United States progress in this direction has been slow. Concurrent jurisdiction causes uncertainty and delay. Much time is lost in determining the question of jurisdiction. All of England finds it necessary to use fewer judges in civil litigation than does the State of Illinois.

Court Administration. Judicial procedure and administration are being improved within the federal and state courts. In connection with the administration of justice, the Administrative Office of the United States Court was created in 1939. At its head is a director appointed by the Supreme Court of the United States and under the direction of the conference of senior courts. His duties are (1) providing for the business needs of the courts, (2) the continuous study of the operation of the courts in order to bring about greater efficiency of the court system and the more speedy and effective disposition of cases. The director is the fiscal arm of the courts and also sees to the accommodations, equipment, and supplies. He administers matters relating to the official classification, clerical and administrative personnel of the courts, but not appointments. He examines the dockets of various courts and secures information as to their needs for assistance, prepares statistics, data, and reports of business transactions, which he transmits to the senior circuit judges. The Administrative Office of the United States Court has helped to stimulate the creation of many state judicial councils which consider the improvement of state procedure and court organization. The director attends judicial conferences held in a district which is composed of federal circuit and

district court judges and some members of the bar. It is the duty of the director to submit an annual report.

Equality before the Law. There now remain for consideration reforms in the administration of justice which have even wider social implications than those already discussed.¹ If Thomas Jefferson were alive today, he would probably argue that equality before the law is one of the most important aspects of democracy. The fact is that in both the civil and the criminal proceedings in some American courts the poor are at a disadvantage as compared with the wealthy. In the first place, the former are often unable to secure the services of an attorney in cases which involve small claims. These claims are therefore not settled at all, or are adjusted out of court at only a fraction of their value. In the second place, if perchance the plaintiff does manage to win his suit, his opponent is able to tire him out and, by appealing the case, eventually exhaust his financial resources. Some kind of an inequitable compromise or no settlement may then result. Two steps that have been taken to meet this situation are the setting up of *legal-aid bureaus*, where free legal advice can be secured, and the establishing of *small claims courts* to which indigent persons may go to have their claims adjusted without incurring the expense of engaging legal counsel.

Criminal Trial Handicaps. In the field of criminal trials, poor people are sometimes as greatly handicapped as in civil actions. When they are faced with an accusation of crime and lack funds to pay for the services of an attorney, the judge selects counsel for them. In that event the counselor may be a young and inexperienced attorney, or, even if he be able and experienced, he does not usually have adequate time and resources to give to the case. On the other hand, wealthy persons can employ competent lawyers, who often present their defense more effectively than the prosecuting attorney can present the case for the state.

Finally, the poor man suffers certain disadvantages in respect to punishment. The fact is that punishment by fines in magistrates' courts was begun when economic inequalities were far fewer than today. It is ridiculous to assume that a prosperous person who is fined \$5.00 for speeding is punished as severely as the "panhandler"

¹ Much of the material given below must be qualified in the light of different local situations.

who after being fined the same amount for disorderly conduct, must "work it out" in jail.

The Public Defender. In order to remedy these situations, at least in part, some communities, beginning with Los Angeles in 1914, have established the office of the *public defender*, who furnishes legal assistance without cost to indigent persons accused of crimes. In the main, this plan has worked well in such jurisdictions as Cook County, Illinois, Memphis, Norfolk, Minneapolis, Omaha, and San Francisco.

The Improvement of Magistrates' Courts. One of the most regrettable aspects of the administration of justice in the United States is the abuse of good judicial procedure in certain magistrates' courts. As the term "magistrate" is used in this chapter it refers to any judicial official who has the power of conducting a preliminary examination of an apprehended person who may be freed, punished for a misdemeanor, or if the evidence points to a felony, bound over to await action by a grand jury.

Justice of the Peace. The first in the line of magistrates, the English justice of the peace, began work five or six centuries ago. By the time his office was being imported into America, during the century preceding the Revolutionary War, it had fallen into disrepute in the land of its origin. Shakespeare's Justice Shallow¹ — conceited, arbitrary, ignorant, and unlearned in the law — was rather typical of his time.

From colonial days until now the justice of the peace elected in the townships of the United States has had five rather unvarying characteristics: (1) he functions mainly in rural areas and only for part of the time; (2) his office is not a *court of record*, since he has no clerk, keeps no official records, and does not have the power to punish for *contempt of court*;² (3) he occupies the lowest rung of the judicial ladder; (4) he has certain civil functions such as the performance of marriage ceremonies; and (5) his compensation generally consists of fees rather than a fixed salary.

The last two general aspects of the office of justice of the peace, together with the fact that state laws do not often require that he have any knowledge of the law, have given rise to many abuses. For example, "marrying justices" have been willing to rise at any

¹ *Merry Wives of Windsor*; also *King Henry IV*, Part II.

² This is a punishable disregard or violation of a court order.

hour of the night to join irresponsible couples in wedlock. Moreover, since the incomes of the justices are usually from fees rather than from fixed salaries, they are tempted to "fee grabbing" by "drumming up" cases. At one time the expression "J.P." was popularly interpreted as "judgment for the plaintiff." A favorite device is the operation of a "speed trap" for unwary motorists. This results in the evil of "fee splitting," or the dividing up of the fine with the policeman who makes the arrest.¹ Obvious remedies are the requirement of higher qualifications and the payment of salaries rather than fees.

An English barrister, accustomed to the decorum and dignity of British courts, would be appalled by the disorder prevailing in some American magistrates' courts, for therein defendants may stand bewildered, while bailiffs cry vainly for order, "briefless" lawyers look for business, and politicians "whisper something" into the ear of the judge. Inasmuch as a large percentage of all cases are disposed of in these tribunals, and they are the only ones with which the majority of foreigners and native Americans ever come into direct contact, it is apparent that here is a problem which demands attention.

Cooperation of Bar Associations. Through their recommendations to voters, bar associations or the professional organizations of lawyers have in some cities succeeded in bringing about the choice of a better type of judge, although in certain municipalities their efforts have been to a great extent futile, especially in "landslide" elections. They have also made recommendations for the improvement of judicial procedure. In spite, however, of the helpful activities of the American Law Institute and other professional bodies, the record of attorneys in bringing about reforms in the administration of justice has not always been creditable. In England they opposed the famous Judicature Act of 1873, which eliminated from British court procedure many of the outmoded forms which are today the bane of the American legal system. In American state legislatures, where they have often been in a majority, they have sometimes ranged themselves against court reform bills, either because they did not wish to learn new forms or because they desired to retain the loopholes of the old. This brings to mind

¹ See Albert Lepawsky, *The Judicial System of Metropolitan Chicago*, University of Chicago Press, Chicago, 1932, Chap. 8, for further illustrations of abuses.

the "political" lawyer, who engages in tax "fixing" or other questionable activities, and the criminal attorney, who, forgetting his sworn duty to society as an officer of the court, hides behind the right of privileged communication between counsel and client, while shielding the guilty by every means in his power. Often by imperceptible degrees he becomes a "lawyer-criminal" who conceals fugitives from justice or becomes a partner in labor racketeering and many other forms of criminal enterprise.

Collective Responsibility for Justice. It should not be assumed that the above-described machinery for the administration of justice exists or should exist solely to suppress the criminal tendencies of the "lower classes" of society; nor that the failures of that machinery to function are almost entirely owing to the shortcomings of the civil, police, criminal, and juvenile-court judges, attorneys, and prison authorities who operate it. Likewise even individuals and mobs who "take the law into their own hands" — deplorable as their misdeeds are — should not be made to bear more than a fair share of the burden of the defects in the administration of justice. In fact the best figures available show that certain acts of mob violence as lynching are slightly decreasing in the United States. "There has been a steady and marked decline in the annual number of persons lynched in the United States, from 187 a generation ago to 16 persons in the period today."¹ The responsibility for the proper administration of justice rests on all classes of the American people as well as on the officials who serve them.

Justice and the "Upper Classes." In his presidential address² to the American Sociological Society Edwin H. Sutherland said: "The criminal statistics show that crime, *as popularly conceived and officially measured*, has a high incidence in the lower class and a low incidence in the upper class; less than 2 per cent of the persons committed to prisons in a year belong to the upper class."³ These figures have to do with all the cases handled by law-enforcing officials, except traffic violations. According to Sutherland, these statistics are used to show not only that crime is concentrated in

¹ *Urban Government*, Volume I of the Supplementary Report of the Urbanism Committee to the National Resources Committee, Louis Wirth and Marshall Clinard, "Public Safety," Part V, Section V, p. 299.

² See Edwin H. Sutherland, "White Collar Criminality," *American Sociological Review*, VII, Feb., 1940.

³ *Ibid.*

the "lower class," but that it is caused by poverty or such social characteristics allied to poverty as feeble-mindedness, psychopathic tendencies, slum neighborhoods, and deteriorated families. He contends, however, that the samples are "biased" or incomplete because the criminal acts of business and professional men are not included. Of these he cites a number of instances, of which the following is typical:

An officer of a chain grocery store in one year embezzled \$600,000 which was six times as much as the annual losses from five hundred burglaries and robberies of the stores in that chain. White collar crimes violate trust and therefore create distrust which lowers social morale and produces social disorganization on a large scale.¹

Sutherland groups among "white-collar" criminals those who are not convicted of provable crimes because of the unwillingness of business associates to testify in court, or because of their own pressures against law-enforcing officials; those who are partners in wrong doing but are not prosecuted; and those whose crimes result in suits for damages rather than criminal prosecution. He continues with the observation that for these and other reasons much white-collar criminality escapes public notice as such. He feels that the facts, if completely known, might suggest some alterations of the conclusions of those who have dealt only with the data relating to "lower class" crime.

Justice and the American Way of Life. Perhaps a valid conclusion is that America's administration of justice not only cuts across practically every phase of the national culture, but ultimately affects in some manner and to some degree nearly all the people of the United States. In view of this fact it is evident that American justice and the "American way of life" must fall or rise together.

TERMS TO BE UNDERSTOOD

administrative tribunal	legal aid bureau
arbitration	misdemeanor
bail	mistrial
challenge	<i>nolle prosequi</i>
charge	opinion, concurring

¹ See Edwin H. Sutherland, "White Collar Criminality," *American Sociological Review*, VII, Feb., 1940, p. 5. On Oct. 27, 1941, J. Albert Woll, District Attorney for the United States District Court for Northern Illinois, in an address, while speaking on the subject "Piracy on the Business Sea," stated that in only 176 out of about 6000 fraud cases investigated by the Federal government there had been a loss to the people of the United States of \$70,000,000. (*Chicago Daily News*, Oct. 28, 1941.)

common law	opinion, dissenting
conciliation	opinion, majority
declaratory judgment	perjury
defendant	petit jury
equity law	plaintiff
<i>ex parte</i>	preventive justice
felony	privileged communication
grand jury	probate court
<i>habeas corpus</i>	public defender
indictment	reversible error
information	small claims court
innocence presumption	<i>stare decisis</i>
jurisdiction, appellate	statute
jurisdiction, concurrent	technicality
jurisdiction, original	warrant

QUESTIONS FOR DISCUSSION

1. If you had been Justice Pecora, would you have declared a mistrial in the first hearing of the Hines Case? Why or why not?
2. List several ways in which politics affects criminal prosecution.
3. Explain why lawyers sometimes oppose reforms in the administration of justice.
4. What do you regard as the most important reforms that need be made in the administration of justice? What obstacles stand in the way?
5. Define the various procedures of preventive justice and comment on their value.
6. Discuss the advisability of changing the unanimous decision to a majority decision of a jury in a civil suit.
7. Suggest changes for reducing the expense of litigation in cases involving small sums of money.
8. Discuss the statement: "In America all men are equal before the law."
9. Why does the federal judiciary enjoy greater prestige in the United States than the average local judiciary?

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PUBLIC SAFETY

PUBLIC SAFETY AS A SOCIAL PROBLEM

The human race has in the course of its long and varied history been subjected to a multitude of hazards to health, life, property, and welfare. Some of the dangers to which man has been exposed may be said to be due to natural causes. Droughts and floods, storms and earthquakes, landslides and tidal waves, intemperate weather, wild animals and insects, poisons, epidemics, crop failures, and fires are among the vicissitudes of nature that have adversely affected mankind. Against some of these natural enemies human societies have attempted to safeguard themselves in a variety of ways, and while in many respects human ingenuity has triumphed over nature there remain many unforeseen disasters which repeatedly remind us that our conquest of the forces of nature remains incomplete. Although the expectation of life of the average man has been increased, no way has yet been found or is likely to be found to extend the life span indefinitely.

In addition to the hazards of nature, however, man is subject to a host of enemies of his own making. The enormously complicated technology which we have invented itself produces certain new dangers which were unknown in a simpler society. Explosions, industrial accidents, traffic hazards, to mention but a few, take a large annual toll of life and limb. Crime, disorder, war, and sheer neglect or failure to use what knowledge and resources we have to protect the health and welfare of ourselves and our fellow men are among the other defects of men and societies which cause widespread suffering.

In a chapter on Public Safety it is obviously impossible to discuss all of the perils which beset us as individuals or which afflict society. In previous chapters, such as those on Health, on Delinquency and Crime, some aspects of public safety have already been touched upon. We are concerned here with a few typical problems of public

safety and especially with representative instances of the measures that our society takes to deal with them.

In his *In Memoriam*, Alfred Tennyson writes of nature:

So careful of the type she seems
So careless of the single life.

Can anyone doubt that man has always been "careless of the single life"?

Deaths from War, Accidents, and Other Causes. One of the most dramatic and most serious threats to the security of large sections of the people of the world has been and still is war. The Adjutant General's Office of the War Department gives the following figures for mortalities in action and from wounds in the major wars of the United States that have been fought since our national beginnings:

TABLE LVI¹
AMERICAN WAR FATALITIES

<i>War</i>	<i>Troops Engaged</i>	<i>Deaths in Action or from Wounds</i>
Revolutionary War	395,858	4,044
War of 1812	528,274	1,956
War with Mexico	116,597	1,549
Civil War (Union Forces)	2,128,948	110,070
Civil War (Confederate Forces)	900,000	74,524
War with Spain (including the Philippines)	280,564	1,704
First World War	4,057,101	50,510
Total	8,407,342	244,357

These figures should be compared to those in the following table relating to accidental deaths in the United States over a five-year period.

TABLE LVII²
ACCIDENTAL DEATHS, 1936-1940

<i>Year</i>	<i>All Accidental Deaths</i>	<i>Deaths per 100,000</i>
1936	110,052	85.8
1937	105,205	81.4
1938	93,805	72.1
1939	92,686	70.7
1940	96,500	73.2
Total	498,248	

¹ *Accident Facts*, National Safety Council, Inc. (Statistical Bureau), Chicago, 1940, p. 71.

² *Ibid.*, p. 2, and *ibid.*, preliminary 1941 ed., p. 1.

Thus it would seem that from the beginning of the year 1936 to the end of the year 1940 over twice as many Americans met death in accidents as there were combatants who were killed in action and who died of wounds in all the wars of the United States! In view of this fact, one is not surprised to learn that the hazards of peace in the United States are almost as great in proportion to population as are the dangers of war. In England, a country of approximately 40,000,000 people, 19,000 civilians were killed in air raids in the first seven months of 1941; while during that same period 56,000 of the 132,000,000 Americans lost their lives in accidents.¹

Table LVIII reveals that since 1938 the totals of the various categories of accidental deaths — barring the increases of 1940, which can be largely attributed to the industrial stimulus of the national defense program — have remained practically the same. In fact, the figures for each of the years since 1913 tell the same story except for motor-vehicle fatalities, which began their phenomenal rise about twenty-five years ago.

TABLE LVIII ²
CAUSES OF ACCIDENTAL DEATHS, 1938-1940

<i>Kind of Accident</i>	<i>1938</i>	<i>1939</i>	<i>1940</i>
All accidents	93,805	93,000	96,500
Motor vehicle	32,582	32,600	34,500
Public (not motor vehicle) . . .	16,000	15,000	15,000
Home	31,500	32,000	33,000
Occupational	16,500	16,000	17,000

On the other hand Table LIX shows that during the last forty years there have been tremendous reductions of deaths from the three diseases listed while accidents have increased.

Figures 49³ and 50⁴ afford some interesting breakdowns of the causes of accidental deaths in 1940.

¹ Reported by William G. Johnson, Chief Statistician, Statistical Bureau, National Safety Council, Chicago, Oct. 1, 1941.

² *Accident Facts*, 1940 ed., p. 2, and 1941 ed., p. 3.

³ *Ibid.*, p. 3.

⁴ *Ibid.*, p. 5.

TABLE LIX¹

COMPARATIVE CHANGES IN DEATH AND ACCIDENT RATES IN 40 YEARS

<i>Cause</i>	<i>Average Annual Death Toll 40 Years Ago</i>	<i>1939 Toll</i>	<i>Per Cent Change</i>
Diphtheria	24,000	1,997	- 92
Typhoid fever	26,000	2,001	- 92
Tuberculosis	156,000	61,609	- 60
Accidents	69,000	92,686	+ 34

It is impossible to count the cost to the nation of this tremendous burden of accidents. According to the National Safety Council,² beside the 96,500 deaths in 1940 — nearly 4000 more than were killed in 1939 — should be placed 9,100,000 accidental injuries, 330,000 of which resulted in permanent disabilities, and accident costs — here a fire loss of \$286,000,000 is included — amounting to \$3,500,000,000. Figures released by the National Safety Congress and Exposition, held in Chicago from October 6 to October 10, 1941, revealed that occupational accidents were running 6 per cent higher than in 1940 and automobile accidents 18 per cent above

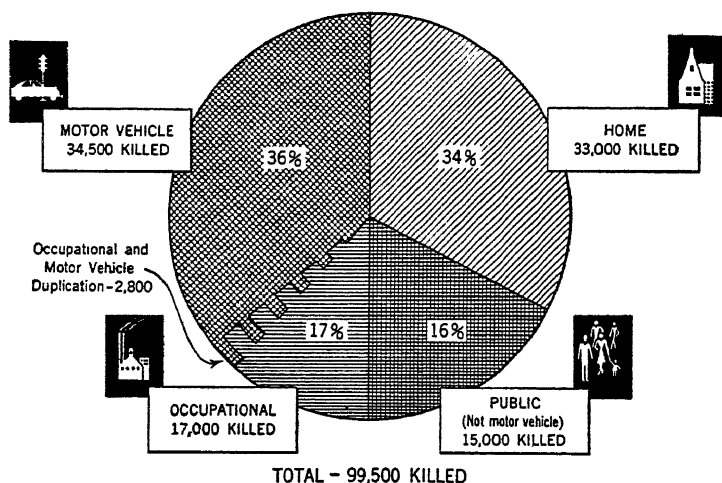


FIG. 49. DISTRIBUTION OF 1940 ACCIDENTAL DEATHS

From National Safety Council, *Accident Facts*, 1941, p. 3. Approximations based on data from the U. S. Bureau of the Census and state and city reports.

¹ *Accident Facts*, 1940 ed., p. 2, and 1941 ed., p. 14.

² *Ibid.*, p. 3.

those for a comparable period of 1940. In fact, it was predicted that the 1941 accident toll would be 100,000 deaths.

These pictures, somber as they are, still lack some of the darker strokes necessary to complete them. Additions might include 8799 homicides committed (1938)¹ in the United States, together with an undetermined number of deaths from diseases caused by the carelessness or criminality of citizens and officials.

Under conditions of life where no individual by himself can assure his own security and where the security of each depends upon an orderly society, the problem of public safety emerges as one of the chief concerns of the state. "The protection of life and property against the depredations of antisocial individuals within the country and of enemies from without is generally recognized to be the most fundamental activity of government."² This means the exercise of police and military powers.

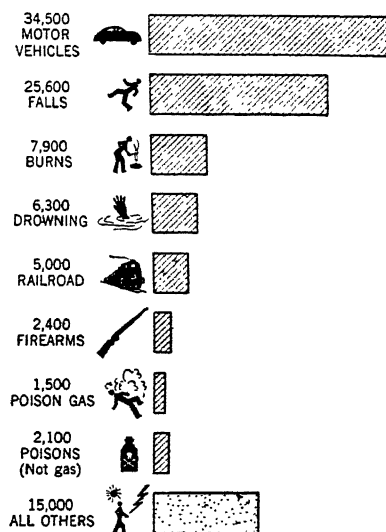


FIG. 50. CAUSES OF 1940 ACCIDENTAL DEATHS

From National Safety Council, *Accident Facts*, 1940, p. 5. Source: U. S. Bureau of the Census.

THE POLICE POWER AND PUBLIC SAFETY

Origins of the Police Power. The word "police" is derived from a Greek word meaning "of or pertaining to an organized community."³ The Roman Emperor Augustus first applied the term to the maintenance of law and order. Charlemagne used it with reference to a body of feudal rules pertaining to weights and measures, tolls, markets, and so on. Later Adam Smith spoke of it as the domestic regulation of such matters as taxes, monopolies, and

¹ U. S. Dept. of Commerce, Bureau of the Census, *Statistical Abstract of the United States: 1940*, U. S. Government Printing Office, Washington, D. C., 1940, p. 86.

² Harvey Walker, *Public Administration in the United States*, Farrar and Rinehart, Inc., New York, 1937, p. 366.

³ Walton H. Hamilton and Carlton C. Rodee, "Police Power," *Encyclopedia of the Social Sciences*, The Macmillan Company, New York, 1934, Vol. XII, pp. 190-192.

bounties. Thus the word seemed to refer to whatever governmental controls were, or in the opinion of officials should be, imposed at any given time for the good of the state.

The expression "police power" connotes so much that no definition is entirely satisfactory. Perhaps police power may best be thought of as the authority of a government to regulate or control liberty and property in the interest of public health, safety, morals, or the general welfare.¹ Thus when a legislature enacts statutes to prevent the spreading of contagious diseases, to provide for the erection of fire escapes, to prohibit gambling, or to care for the insane and the poor, it is legitimately exercising the police power.

Limits of the Police Power. Just as the military power is founded primarily on the duty of a state to protect itself from external foes, so the police power is built on the obligation of the government to preserve its citizens from injury by internal enemies or forces. But how far may officials go in acting upon the latter basis of authority?

It is necessary to distinguish between the exercise of the police power for the promotion of the fundamental objects of social welfare, such as health, safety, and morals, and its exercise for the promotion of less fundamental objects, such as economic interests, comfort, and convenience.²

To illustrate the difficulty of drawing a line between the more and less "fundamental objects," two types of situations may be considered. First, if officials destroy private property such as diseased animals, or "fire trap" buildings that are dangerous to the lives of people, are they liable for compensation to the owners? In other words, is this the exercise of *eminent domain*, which means the taking of private property for a public purpose? Here the courts will answer in the negative because the abovementioned things, although justifiably destroyed, were not taken for a public use.

In such cases public safety is clearly more important than private property. But is an act passed by a state legislature forbidding landlords to collect unduly high rents during a time when an acute housing shortage exists a legitimate exercise of the police power? In a case in which the emergency was deemed to be so great that

¹ See John Mabry Mathews, *The American Constitutional System*, McGraw-Hill Book Company, Inc., New York, 1940, p. 456. See also Ben Albert Arneson, *Elements of Constitutional Law*, Harper & Brothers, New York, 1928, p. 226.

² Mathews, *op. cit.*, p. 426.

private rights had to yield to public necessity, the United States Supreme Court has answered that such a law was valid.¹

Finally, even in situations where neither a public danger nor an emergency exists — as when, for instance, a public-utility commission prescribes the maximum rates an electric power company may charge — the courts must often find a compromise between individual rights and the public welfare. Here the tendency is for the latter to be allowed to take precedence over the former.

The police power is being constantly extended into new realms of activity. This now means in some cities the censorship by the police of moving pictures and plays. Also through the issuance of permits the police power may include the control of bill posting or distribution, parades, and demonstrations. Raymond B. Fosdick points toward the proper exercise of the police power when he says: "We mean by police the primary constitutional force for the protection of individuals in their legal rights."² Unfortunately, interpretations as to the scope of these rights are bound to differ as between citizens and authorities.

SAFETY AGENCIES AT THE FEDERAL LEVEL

Federal Military Safety Organs. An inspection of Fig. 51 reveals two salient points: (1) the branches of government responsible for public safety are both civil and military; (2) this function is a concern of all three levels of government — federal, state, and local. These two facts will help to provide a frame of reference for the discussion below.

Technically speaking, the United States Constitution does not endow the national government with police powers. Although this power is reserved to the states by the Tenth Amendment, the Federal government exercises extensive police powers which are implied³ from such expressly given Constitutional authorizations as establishing post offices, taxing property and incomes, and regulating interstate commerce. For example, the Supreme Court has upheld Congress in hanging upon these Constitutional pegs such widely divergent statutes as those barring lottery tickets from the

¹ *Block v. Hirsh*, 256 U. S. 135 (1921).

² Raymond B. Fosdick, *European Police Systems*, The Century Company, New York, 1915.

³ See Chap. XXXV, Federal, State, and Local Interrelationships. See also Chap. XLIV, Constitutional Reform and Social Progress.

mails, providing for the inspection of meat and other foods in interstate commerce, laying a confiscatory tax on narcotic drugs, and prescribing penalties for racketeering and other crimes. Incidentally, it would seem that the federal antiracketeering law (1934) may take its place beside the statute relating to income-tax evasion as a potent weapon against criminals in high places.

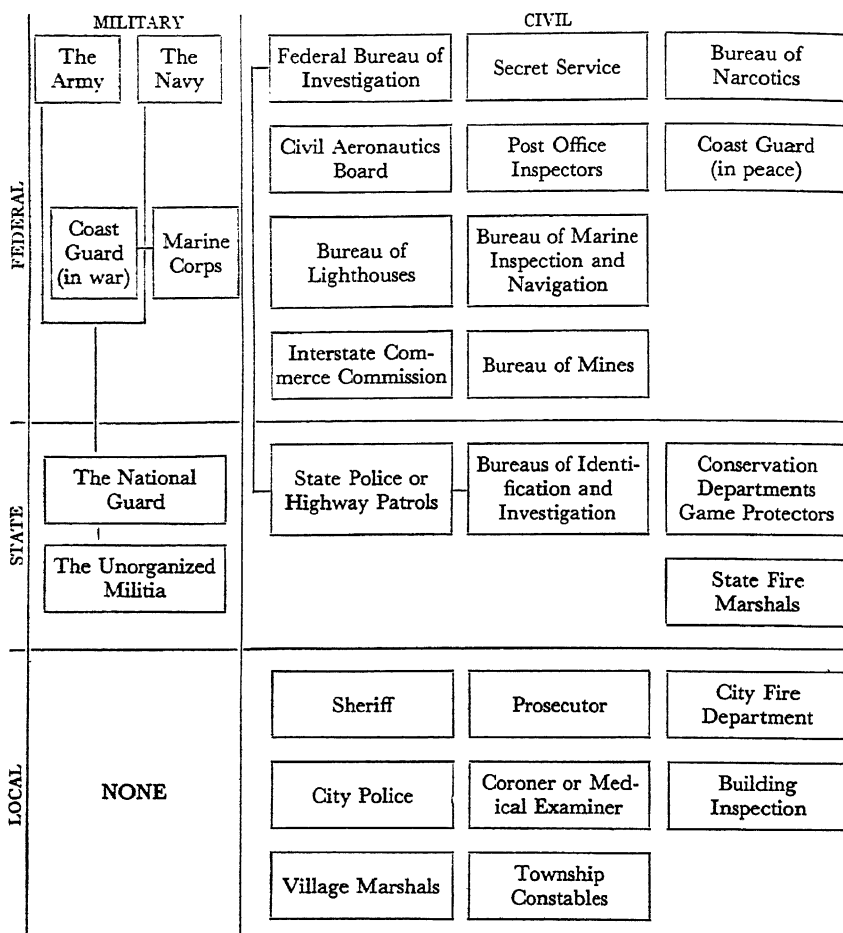


FIG. 51. PROTECTION OF LIFE AND PROPERTY, JANUARY 1, 1936

From Harvey Walker, *Public Administration in the United States*, Farrar and Rinehart, Inc., New York, 1937, p. 367. Notes: This chart has been altered to show the replacement since 1937 of the Bureau of Air Commerce by the Civil Aeronautics Board, an agency whose name was changed from the Civil Aeronautics Authority on June 11, 1940. No new national defense agencies are shown. For these see Chap. XXXIX, Public Administration.

Another glance at Fig. 51 shows that the military agencies¹ of the national government whose activities are vitally related to the protection of life and property include the Army, the Navy, the Marine Corps, and in time of war the Coast Guard.²

As for internal law enforcement by military means, there is no doubt whatever of the authority of the Federal government to use the national armed forces for that purpose. Thus in 1794 President George Washington employed troops to quell the Whisky Rebellion. A century later, in 1894, President Grover Cleveland sent soldiers to keep the mail trains running at the time of the famous railroad strike. In a case that arose from this incident the United States Supreme Court said: "If the emergency arises, the army of the nation, and all its militia, are at the service of the nation to compel obedience to its laws."³

National Police Organizations. Turning now to the civilian police arms of the United States, one finds the Coast Guard in times of peace serving as a patrol unit, which has general powers of criminal law enforcement on the shores of navigable lakes and within the coastal waters of the United States. The functions of such other civil police organizations on the federal level as the Secret Service Division of the Treasury, the Bureau of Narcotics (which is also in the Treasury), the Immigration Border Patrol of the Department of Justice, post office inspectors, and the Federal Bureau of Investigation have already received brief mention elsewhere.⁴ To these might be added the Public Health Service (Federal Security Agency), the Veterans' Administration, Office of Indian Affairs (Interior), the National Park Service, and several others which exercise minor police powers within the limits of the law.

The above roster could have been lengthened into a list of about forty-eight Federal organizations. Their total number of police agents, however, would be

... approximately equal to the numerical strength of the Chicago Police Department, and even if the 10,000 men of the Coast Guard were added thereto, it

¹ These are too vast to be adequately dealt with here.

² In times of peace the Coast Guard is under the jurisdiction of the Treasury Department, but in times of war it may be transferred to the Navy Department. Early in November, 1941, such a transfer was made by President Franklin D. Roosevelt, pursuant to an act of Congress, approved Jan. 28, 1915, and amended July 14, 1941.

³ In re Debs, 158 U. S. 564 (1895).

⁴ See Chap. XL, The Administration of Justice; also Vol. I, Chap. X, Delinquency and Crime, p. 306.

would still fall short of man power of the New York City police force. On the other hand, there are probably as many criminal investigators in the seven federal agencies employing them as could be mustered by all other police units in the United States taken together.¹

Moreover, increased appropriations by Congress between 1931 and 1940 and a more extensive jurisdiction afforded by the increase of actions considered criminal by statute—witness here such additions as the “Lindbergh” kidnaping law (1932 and 1934) and the National Stolen Property Act (1934)—have particularly enlarged the Federal Bureau of Investigation both as to expenditures and personnel. A still greater advance in these respects can be looked for as that police arm thrusts itself further into investigation of sabotage and “fifth column” activities.

The Federal Bureau of Investigation. By and large, the FBI ranks highest among the federal police agencies with respect to its physical and educational requirements for entrance, its in-service training program, the salaries paid to its operatives, and in other respects. Its special agents, for instance, must be graduates in law and accountancy. All recruits must receive “full-time practical and theoretical instruction for fourteen weeks at the outset, with qualifying examinations of frequent occurrence thereafter, and annually supplemented by two to four weeks of review courses.”² As to salaries,

For the rank and file of FBI special agents the current scale is \$3200 per annum for recruits and close to \$3900 for men in the same grade but of longer service and greater experience. Some special agents range as high as \$5000, which is the highest civil police salary level in the world.³

Some Problems of the Federal Police. Like many other governmental agencies, the federal police establishments are sometimes troubled with overlapping functions and duplication of work. For instance, the Customs Patrol and the Immigration Border Patrol each has its own specialty, but both have authority to make arrests of those who participate in the illegal traffic in aliens and of those who violate the customs laws. From such situations as this arises the need for cooperation and coordination. There are similar problems among other safety agencies, on the three levels of govern-

¹ Bruce Smith, *Police Systems in the United States*, Harper & Brothers, New York, 1940, p. 209.

² *Ibid.*, p. 211.

³ *Ibid.*, p. 212.

ment, as will presently be observed. Some functions are unique to a given agency, others are carried out cooperatively between several, while still others show that the activities of an agency on one level take the place of those formerly performed by an agency on another level.

Unique Functions. First, there are what might be called the "unique" functions performed at any one level alone, as when federal post-office inspectors investigate the sending of obscene or fraudulent matter through the mails; or when the Texas Rangers patrol the Mexican border.

Cooperative Relationships. Next come the cooperative relationships among the three levels of government. These are increasing in number. Thus largely through the efforts of the National Conference of Commissioners on Uniform State Laws and the Interstate Commission on Crime, varying numbers of states have adopted uniform laws for the regulation of narcotic drugs, interstate rendition of witnesses, extradition of criminals, supervision of parolees, and the sale of firearms.¹ The FBI furnishes additional illustrations. Its Bureau of Identification, which contains four or five million fingerprints, is the best means available to the police of the entire country for identifying criminals. State bureaus of identification, like those of California, Illinois, Louisiana, Nebraska, New York, and Ohio, also rely on this huge central file for valuable information. New Jersey now has both county and state bureaus of identification, all of which cooperate with one another and with the federal agency just described.²

Substitutional Tendencies. In surveying the relationships among the three levels of public safety organs, one finds a trend toward the substitution of national for state and state for local protective activities. When, for example, Congress in 1934 passed a

¹ *Ibid.*, pp. 339-340.

² The National Police Academy of the FBI is probably the finest example of the cooperative relationship. The Academy, established in 1935, three times each year offers to thirty-five or forty police officers selected from all parts of the country a full-time twelve-weeks' course. For this no tuition is charged. In addition, the school conducts once a year a ten-day session for advanced study. Instructors are drawn from the FBI, state and local police organizations, and the universities. The chief purposes of the National Police Academy are to train instructors for state and local police schools, and to equip men for the higher administrative posts in the various police jurisdictions. *Ibid.*, pp. 324-325. See also the National Resources Committee, *Urban Government*, Supplementary Report of the Urbanism Committee, U. S. Government Printing Office, Washington, D. C., 1940, Vol. I, pp. 85, 283.

penal statute punishing attacks upon national banks, it not only tended to supplement state laws but also to provide for the federal prosecution of violators, if the national government could apprehend them before the police of state or local governments were able to do so.¹ However, as will be seen, the best illustrations of the substitutional trend are found in state police work.

SAFETY AGENCIES AT THE STATE LEVEL

The Organization and Functions of State Police. In contrast with the corresponding European organizations whose control is largely centralized in the national government, the several thousand American local police systems are highly decentralized. English police occupy a position somewhere between these two extremes, for while they are locally recruited and paid, their operations are to a considerable degree controlled by the Home Secretary, whose inspectors see to it that the urban, county, and rural constabularies live up to high standards.

In the face of the changing character of organized crime it became increasingly clear that the decentralized police systems of the United States could not effectively deal with law violators who naturally had no respect for political boundaries. This was one of the better motives for the creation of state police forces. It was unfortunately accompanied by unworthy ambitions for political patronage, which still afflict some of the state systems today, but less than is the case in many cities, counties, and townships of the United States.

Both the inefficiency and the unwillingness of local police when it came to enforcing unpopular state-wide regulations were additional reasons for the establishment of a state police arm. Thus because the governor of Indiana had no legal means to compel sheriffs and constables to perform their sworn duty, he was compelled to call out the state militia to enforce a law prohibiting race-track gambling. The governor of Pennsylvania, when confronted in 1905 with industrial disorders in that commonwealth's coal and iron regions, created a state police force. Texas (1835), Arizona (1901), Connecticut (1903), and one or two other states preceded

¹This may lead to a decline of state and local effort. See School of Law, Duke University, "Extending Powers over Crime," *Law and Contemporary Problems*, I, Durham, N. C., Oct., 1934, p. 449.

Pennsylvania in setting up such an organization, but that state's system proved so administratively centralized, well knit, and efficient in patrolling rural areas that it became the model for New York (1917), Michigan (1917), West Virginia (1919), and several other systems.¹ Today some thirty-six of these forces are patterned more or less after the model of the Pennsylvania organization, which may enforce all criminal laws anywhere within the state.

In addition, there are twelve state highway patrols.² These agencies, which are usually restricted to the enforcement of motor vehicle and highway regulations, are, in comparison with those previously mentioned, much inferior as to recruiting policies, training programs, and discipline. All too frequently they sink into the mire of corrupt politics.³

Problems of the State Police. It should be noted that the systems of Pennsylvania, New York, Massachusetts, Michigan, New Jersey, and Rhode Island uphold standards far in advance of those prevailing in most state and local police systems. They employ excellent criteria of selection, elaborate training programs, efficiency rating cards, and very strict discipline. Also they are well equipped with automobiles, protective weapons, and such systems of rapid communication as the teletype, radiophone, radiotype, and radio-telegraph.

Besides these difficulties, practically all the state police forces have been faced with one or more of three problems. The first of these is the ever present menace of corrupt partisan politics. The second is the hostility of organized labor, which has risen highest in Pennsylvania where the state police have frequently been engaged in strike duty and have been looked upon as strike-breakers. Because of this attitude New York has provided by law that the police force of the state shall not act to suppress a riot or any other disorder "within the limits of any city except by direction of the governor or upon the request of the mayor when approved by the

¹ Smith, *op. cit.*, pp. 180, 182-183. See also Katherine Mayo, *Justice to All: The Story of the Pennsylvania State Police*, 5th rev. ed., Houghton Mifflin Company, Boston, 1920.

² Clarence E. Ridley and Orin F. Nolting, editors, *The Municipal Year Book, 1941*, The International City Managers' Association, Chicago, 1941, p. 440.

³ Some 100 Illinois state highway police have recently been reported as having been selected in a merit basis, with results that cannot be foreseen at this date (Nov., 1941).

governor.”¹ Somewhat similar limitations have been adopted in several other states. Massachusetts has gone so far as to forbid the use of the state highway patrol in any strike, lockout, or other labor controversy. Third is the hostility of local law enforcement officials. One reason for this is that American communities are inclined to resent the use of outside force to suppress local disturbances.

Other State Safety Organs. Just as the United States Army may be called out for the emergency enforcement of federal laws, so may the state militia be commanded by the governor to preserve order in the environs of a great conflagration, a disastrous flood, or a dangerous public disturbance. But in the absence of these or other exigencies, such civilian safety arms as the state police and certain other officials carry on their work. Among the latter group are fire marshals, who inspect buildings for fire hazards and cooperate with local departments in fire fighting and fire prevention, and the bureaus of criminal identification previously mentioned.

In Pennsylvania, New York, West Virginia, and New Jersey the state police are also designated as fire, fish, and game wardens; they may accordingly command the aid of all persons in extinguishing forest fires, and may search game bags without judicial warrant.²

RURAL AND RURBAN³ PROTECTIVE AGENCIES

The Sheriff. It may be noted that no state police organization has been given the right to command the *posse comitatus*, or “power of the county,” which the county sheriff usually possesses. At common law this is the power of that officer to summon all male inhabitants above the age of fifteen to pursue escaping criminals or to assist him in preserving the public peace. However, this function, like certain others belonging to the sheriff, has fallen into disuse.

History of the Office. The office of sheriff has had a much longer history than the United States itself. In fact, in England it antedated the Norman Conquest. The Anglo-Saxon sheriff was the king’s steward and the chief arm of the law within his jurisdiction. The Norman kings and their immediate successors continued these functions for a time. Then the sheriff lost some of his protective, judicial, and financial powers; and his consequent decline has con-

¹ Smith, *op. cit.*, p. 195. See also Bruce Smith, *The State Police*, The Macmillan Company, New York, 1925.

² Bruce Smith, *Police Systems in the United States*, p. 190.

³ A descriptive term applied to areas having both rural and urban characteristics.

tinued, until today "in England the sheriff is a dignified and gentlemanly nonentity who guarantees for one year the proper performance of work in which he plays no part."¹

His Declining Police Function. But strangely enough, although his office was already deteriorating in seventeenth century England, in the American colonies the sheriff recovered some of his earlier importance. This he retained on the frontier, where he personified the majesty of "two-gun" law.

But this flare of the old glory was soon extinguished. Wherever civilization has come to be highly developed in America, the office of the sheriff has slowly approximated a profitable but worthless sinecure.²

The fact remains that practically every county in the United States still has its sheriff. In most cases he is popularly elected for a two-year or four-year term.

Thus the sheriff is the only police officer in the United States who is naturally and inevitably involved in partisan politics. . . . Being but a political bird of passage the sheriff naturally clings to his private occupation, if any. He may be a farmer, a miner, a carpenter, a blacksmith, or a butcher.³

Because he is elected, he does not like to offend any voters by vigorous law enforcement. Inasmuch as he lacks professional training, he is ill-prepared to cope with desperate and experienced criminals who may at any time hide out in his rural community.

Court, Custodial, and Other Duties. "Everywhere in the United States the sheriff is charged with the service of civil process and with custody of the county jail."⁴ In various parts of the country he collects taxes, manages elections, and sells property overburdened with debt. He occasionally administers the possessions of persons who die leaving no readily identifiable heirs. In many parts of the United States the sheriff in lieu of a fixed salary receives a fee for nearly every official act he performs. Thus, whenever he serves a summons to jury service, a *subpoena*⁵ to a witness, a warrant of arrest, or even locks a prisoner in a cell, he may be entitled to a fee. Moreover he is often permitted to keep whatever he can save from the fixed amount per prisoner appropriated for feeding the

¹ Raymond Moley, *Politics and Criminal Prosecution*, Minton, Balch & Company, New York, 1929, p. 96.

² *Ibid.*, pp. 96-97.

³ Smith, *Police Systems in the United States*, p. 85.

⁴ *Ibid.*, p. 86.

⁵ A writ commanding a person to appear in court.

inmates of the county jail. "A powerful economic motive is thus provided to starve the prison population, and in many counties prisoners have given remarkable evidence of ability to sustain life on a minimum of food."¹ Incidentally, because of these and certain other conditions, such as the lack of sanitary facilities, "the county jail has remained the most unsatisfactory part of the entire American correctional system."²

The Metropolitan Sheriff. Except for the additional compensation and prestige, the sheriff in metropolitan regions differs little from his rural counterpart. For instance, in Cook County, Illinois, the elective sheriff receives an ample fixed salary for performing numerous court, custodial, and police duties. Because of the several hundred deputies and custodians he may appoint, his is a powerful patronage office eagerly sought for by politicians. Since in this as in nearly every metropolitan area there are many dubious resorts which are beyond the jurisdiction of the police of the central city,³ the temptations placed before the sheriff's subordinates are numerous and continuous.

The County Police. A variable number of county police forces are an integral part of the sheriff's office in different areas. In many localities he controls the highway patrols (Cook County, Illinois; Hamilton County, Ohio; Monroe County, New York; Los Angeles County, California).

In other places (*e.g.*, Kentucky) there are independent county police forces whose members are chosen by county judges; in South Carolina special patrols appointed and controlled by the county boards; and in Virginia county police appointed by judges of the circuit court. "Nassau County, New York, maintains the largest county police unit that is operated independently of the sheriff's office."⁴

Other independent county police forces include those of the county prosecutor, whose important role in the administration of justice⁵ seems to make it necessary that he be able to command a body of criminal investigators; and the county "vigilantes." These

¹ Moley, *op. cit.*, p. 101.

² *Ibid.*, p. 102. See also Fishman, Joseph Fulling, and Vee Perlman, *Crucibles of Crime*, Cosmopolis Press, New York, 1923.

³ See Chap. XXXVI, Metropolitan Regions.

⁴ Smith, *Police Systems in the United States*, p. 113.

⁵ See Chap. XL, The Administration of Justice.

are semiprivate protective agencies organized largely through the initiative of the American Bankers' Association to combat robbers of small-town banks. Many voluntary bank guards are now giving way to the state police. Also, in some parts of the country there are remnants of the earlier citizen groups whose purpose was to afford protection against horse and cattle thieves. Experience has shown, however, that the deputizing of private citizens for law enforcement attracts not only the best but also the worst elements of the community who may have unworthy purposes of their own to serve.

The Rural Constable. The constable of the rural town or township is the law-enforcing arm of the smallest unit of American local government. His is a fee office which can be traced back to Anglo-Saxon times, but it is at present of little practical importance. [The constable] "is selected by popular vote or casual appointment, without reference to any standard but residence and citizenship; is untrained, unsupervised, and entirely undisciplined."¹

The Village Marshal. The village marshal is the counterpart of the rural constable. In some cases, he has made valiant efforts to keep abreast of modern conditions, but he does not have at his disposal sufficient resources to finance the equipment or even the necessary training for himself and his assistants which would be adequate to cope with the swiftly moving modern criminal. Although the life of his office is being prolonged by the home-rule sentiment of even the smallest villages, sooner or later it will be terminated in many places through the substitution of police units which cover larger areas of operation.

The Coroner. The office of coroner was brought to America from England with that of the sheriff and the constable. The name "coroner" was derived from the Latin "corona," meaning "crown," because he was the guardian of the revenues which accrued to the Crown from the enforcement of the criminal law. In that capacity he seized the property of felons, and "treasure trove," or valuables found hidden, the owner of which was unknown. But in the course of time the coroner's principal duty became the investigation of all instances in which death had been seemingly owing to a cause other than a natural one, especially if it had occurred in the absence of medical treatment or appeared to involve a criminal act. In the latter event it was and still is his function to set forth after an

¹ Smith, *Police Systems in the United States*, pp. 98-99.

inquest (examination of witnesses before a jury) the cause of death, and to name, if possible, the person or persons responsible. Concerning this duty Raymond Moley writes:

It is a decision obviously requiring expert medical as well as legal knowledge and its significance, particularly in thickly populated urban districts, can readily be appreciated. If a coroner is skillful and avails himself of adequate medical assistance, many murder cases may be solved immediately and the offender brought to justice. If, on the other hand, the coroner's work is badly done, murders may take place in which there is not only no apprehension of the murderer but in which insurmountable obstacles are placed in the way of subsequent investigation. Witnesses scatter and valuable evidence is irretrievably lost.¹

Like the sheriff, the coroner no longer meets the needs of a modern society. According to Moley, the latter should have "expert medical as well as legal knowledge," but both types of background are too often wanting in the elective holder of the position. Another difficulty arises from the lack of cooperation between the coroner and the county prosecutor, who frequently has so little respect for the evidence brought forth at the inquest that he makes his own investigation of facts for use in the trial. These and other considerations have led the state of Massachusetts and the city of New York to abolish the office of coroner and to replace it with that of the medical examiner, an experienced physician, who is required to file with the district attorney a report concerning questionable deaths. The latter official then uses the information as he sees fit.²

Concluding Observations. It may be said that rural or urban protective agencies other than those exercising the police function are in a rudimentary state. Some of the towns and villages have small volunteer or partially professionalized fire departments, but their public health organizations are either insignificant or non-existent. In general, it would seem that the protective agencies of the smaller local jurisdictions are destined to be combined to a considerable degree with those of the larger units of government. In the meantime those county, township, or village offices are somewhat reminiscent of the older military posts of the United States — that is, they are no longer of much strategic value, yet are maintained, sometimes because of inertia, but more often to furnish "posts of command" to politically deserving individuals.

¹ Moley, *op. cit.*, pp. 110-111.

² *Ibid.*, pp. 117-126.

URBAN POLICE SYSTEMS

Development of European Police. Policing was one of the first duties undertaken by organized governments everywhere. "Armed guardians of the law walked the streets of Memphis, Thebes, and Babylon. There were centurions and captains of the guard in the Holy City as the Scriptures attest."¹ Ancient Athens entrusted the keeping of the peace to a corps of Scythian bowmen, who made arrests and escorted citizens to the general assembly of the city. Rome had the best police system of the ancient world. It consisted of a militarized force of about 7000 men who fought fires as well as criminals. Its officers resembled the modern Russian and German secret police in that they could punish as well as apprehend suspected persons. This power was no doubt often abused.

During the Middle Ages the towns depended for protection upon the ducal overlords or the church authorities. After freeing themselves from feudal control in the fourteenth and fifteenth centuries, for a time the towns chose their own peace officers. Then the royal authorities took over municipal administration, including the protective activities. Consequently the king's lieutenants of police soon commanded military garrisons in nearly every town. Thus in Europe policing became a militarized national function. To this day the regular police of European cities are operating to a greater extent under a military tradition than in either England or the United States.

The Rise of English Professional Police. Contrary to the attitude of Continental Europeans, throughout the early modern period English public opinion was so strongly opposed to the use of soldiers for police duty² that the boroughs had to provide their own constables and watchmen. This was done by a "watch and ward" system, according to which householders served as watchmen in rotation, one day or one night a month, much as pioneer Americans "worked out" their poll taxes on the roads. In times of emergency the largest communities supplemented the watchmen with half-civilian, half-military "trained bands."³

¹ William Bennett Munro, *Municipal Government and Administration*, The Macmillan Company, New York, 1930, Vol. II, p. 184.

² *Ibid.*, p. 185. As a result of this suspicion of the military in both England and America, civilians usually man the Army and Navy departments of the government.

³ See William Cowper's poem "John Gilpin's Ride" for a reference to a member of one of these.

Only under Cromwell, from 1655 to 1660, were Army officers and militiamen employed in policing. From the Restoration of 1660 to 1829 the watch-and-ward arrangement suffered a sharp decline. To escape from the irksome patrol duties, reputable citizens developed the practice of hiring substitutes. These were even less dependable than the "modern birds on the courthouse fence," who await chance jury assignments. The supplementary watchmen known as "Charleys," who were appointed by the London Common Council in the reign of Charles II, wanting as they were in training, equipment, and supervision, in less than a century reached the nadir of inefficiency. Each of the numerous London parishes had its watchmen who were unable to pursue malefactors into the adjoining jurisdictions. Despite the fact that all serious offenses carried the death penalty, crimes increased steadily in number. Then thinkers like Jeremy Bentham began to point out "that certainty of arrest would accomplish a great deal more than severity of punishment as a check on crime."¹

Peel's Act of 1829 and Its Aftermath. In 1796 Dr. Patrick Colquhoun, a London police magistrate, was the first to urge that the watchmen and constables be replaced by a professional police force. This suggestion bore fruit in 1829, when Sir Robert Peel brought about the passage by Parliament of his famous Metropolitan Police Act authorizing the organization of the London metropolitan police district. Within this area, fifteen miles in diameter, full-time professional police officers under the control of the national government replaced all constables and watchmen.

A chorus of protest arose against the supposed minions of a new despotism which allegedly planned to sweep away local government in a great *coup d'état*. London policemen were derisively called "bobbies" and "coppers." The latter nickname, since shortened to "cops," was applied to the officers because they were uniformed in blue coats, dark belts, and copper buttons to allay the suspicion that they were really soldiers, who at that time wore scarlet tunics, white belts, and brass buttons.

In spite of opposition, however, the professional police soon justified themselves between 1830 and 1835 by helping to bring about a considerable decrease in crime. Consequently in the latter year Parliament authorized other English boroughs to establish the

¹ Munro, *op. cit.*, p. 187.

new system at their discretion. This was generally done during the next few decades.¹

The Advent of American Police. The early New England colonists brought with them the English system of parish constables and civilian watchmen, whom Sir Robert Peel's professional police replaced in 1829. The night watch and military guards established in Boston in 1636 and thereafter in other parts of New England; the Rattle Watch of the Dutch colonists in New York, which was superseded in 1686 by the English constable system; the night watchmen who were appointed by the Philadelphia provincial council in 1700 and were chosen from among the citizens eligible to take their turns at watch and ward — such were some of the landmarks in the development of the night watch as a branch of American municipal government. These rudimentary police had the duty of patrolling the city streets. In addition, they sometimes cried the time and weather, as in Boston, or cared for the street lamps, as in Philadelphia and Baltimore.²

The changes in American social life which came in the nineteenth century with increasing urban populations threw into bold relief such defects of the watch and ward forces as neglect of duty, shiftlessness, short tenure of office, and the political selection of personnel.

The Independent Day Police. This situation was first met in several towns by the formation of a day police force independent of the night watch.³ Philadelphia in 1833, Boston in 1838, Cincinnati in 1842, and New York in 1844 made such provisions. However their own conflicts and inadequacies, together with a series of mob riots which swept cities like Boston, Philadelphia, New York, and Baltimore between 1835 and 1844, caused the collapse of the separate day and night police.

Beginnings of Unified Forces. New York took the first practical step to remedy the situation. "In 1844 the legislature passed a law creating 'a day and night police,' which forms the bases of modern police organization in America."⁴ Similar action was taken by Chicago in 1851; New Orleans and Cincinnati in 1852; Philadelphia and Boston in 1854; Baltimore and Newark in 1857; and Providence in 1864.⁵

¹ *Ibid.*, p. 188.

² Raymond B. Fosdick, *American Police Systems*, pp. 58-60.

³ *Ibid.*, p. 62.

⁴ *Ibid.*, p. 66.

⁵ *Ibid.*, p. 67.

"This consolidation of policing under one head was a major improvement in American cities, but it was a long time before order and discipline could be put into the police department."¹ Some evidences of this which were revealed between 1844 and 1860 were wholesale dabbling in politics, assaulting superior officers, extorting money from prisoners, and refusing to go on patrol or to wear uniforms which were looked upon as "an imitation of royalty" and "un-American."²

The Rise and Decline of State Control. The aforementioned and other difficulties in 1857 led the legislature of New York to pass a metropolitan police law modeled after the earlier Peel's Act. The American statute "consolidated the police districts of the cities of New York and Brooklyn, and the counties of Kings, Westchester, and Brooklyn under a board of five commissioners appointed by the governor."³ Apparently the New York legislature was actuated to some extent by partisan motives. Indeed, at this time state legislatures were playing fast and loose with the preponderant powers that they had taken over from the royal governors after the Revolution. Consequently, the legislatures provided for state control of the police of Baltimore, St. Louis, Kansas City, Chicago, Boston, Detroit, and many other cities which reorganized their forces during the next twenty-five years. However, as the turn of the century approached, a rising home-rule sentiment brushed aside the arguments for state control. In vain it was contended that policemen are state officers who enforce state laws and should be protected from local spoilsmen — a theory on the basis of which London constables must be recruited from outside the metropolitan area. The state legislatures were compelled by public opinion to reestablish municipal control over the police, excepting in certain cities like Baltimore, Kansas City, and Boston, whose police departments are still managed indirectly from the state capitals.

Police Department Organization. Experience with the council committee, board, and single-commissioner types of police control

¹ National Resources Committee, "Public Safety," *Urban Government*, Supplementary Report of the Urbanism Committee, U. S. Government Printing Office, Washington, D. C., 1940, Vol. I, Part V, p. 277.

² Fosdick, *op. cit.*, pp. 69-70. When uniforms were adopted the London model was followed to the last detail. The helmet which the stage policeman occasionally wears is reminiscent of this.

³ *Ibid.*, p. 82.

has convinced Americans of the superiority of the last-mentioned plan. Police supervision by a council committee, which was borrowed from England and still exists there, early broke down in America because it degenerated into an unseemly scramble for patronage among city councillors. Next police boards, appointed by the mayor and independent of the council, revealed such glaring administrative weaknesses as interference in matters of discipline, division of responsibility, and intolerable delays.¹ Today it is realized that the unified head is quite in accord with the best administrative theory to the effect that a single, rather than a plural, executive should be employed where undivided responsibility and promptness of action are the most urgent needs.²

The Commissioner. The police commissioner

... should be appointed by the chief executive of the city, that is by the mayor or city manager, and should be removable by him at will. He ought to be a civilian, not a professional police officer. The chief of police, not the commissioner, should be the professional head of the force. The commissioner should bear the same relation to the chief that the secretary of war bears to the commanding general of the army.³

Here comparisons and contrasts between the New York and Chicago practices are instructive. At the head of its police department each city has a commissioner appointed by the mayor. However, the New York official may be and often is a civilian, whereas his Chicago counterpart must "rise from the ranks."

Commissioner Tenure. One of the greatest problems of the police commissioner is that he often rises or falls by virtue of the political winds blowing from the mayor's office. Thus in 1931, the Citizen's Police Committee of Chicago wrote of the city's commissioner of police as "just another political bird of passage."⁴ Until recently the average incumbency of a police head in the larger cities was only about two years. However the term of office of a small city "chief" is on the average much longer. Nevertheless, in Chicago,⁵ New York, and certain other large cities, there are now some hope-

¹ William Bennett Munro, *Municipal Administration*, The Macmillan Company, New York, 1934, pp. 316-317.

² See also Chap. XXXIX, Public Administration.

³ Munro, *op. cit.*, pp. 317-318.

⁴ The Citizens' Police Committee, Bruce Smith, Director, *Chicago Police Problems*, University of Chicago Press, Chicago, 1931, p. 37.

⁵ The present (Nov., 1941) commissioner has already held office for more than ten years.

ful signs of a drift toward the English model of a nonpolitical, professional administrator with a long tenure of office.

Chiefs or Inspectors. In the larger cities there are chiefs or inspectors who aid the commissioner in the difficult task of directing the officers and men of an internal defense army which in size compares favorably with any of the American armies in the Revolutionary War. In fact, at no time was the army under General Washington's immediate command as large as the present New York City force of close to 20,000 policemen and policewomen.

The New York patrol force is distributed among eighty-four precincts, each commanded by a captain. These precincts are grouped under sixteen divisional inspectors responsible to five deputy chief inspectors, who in turn are under the chief inspector, an immediate subordinate of the police commissioner. The traffic and detective divisions are similarly organized.

A somewhat different organization is found in Chicago (see Fig. 52). Among the higher supervisors of the Chicago force are chiefs of traffic, patrol, and detectives, and, in addition, a personnel director, a director of the Bureau of Information and Statistics, and a departmental secretary. In the smaller jurisdictions these functions are of course much less specialized than in New York or Chicago.

So far this discussion of police departmental organization has dealt with the staff, or planning and supervising officers. A consideration of the line or operating organs is now in point.

The Operating Forces. The operating agencies of a large police department are almost too numerous to classify. Their staffs are engaged in crime prevention, personnel, traffic, accident prevention, detective, and other duties. The members of some of these line sections, particularly the foot patrols, are divided in semi-military fashion into *platoons* or shifts, usually of eight hours each. They are also grouped in battalions, companies, and squads, each under its captain, lieutenant, or sergeant, as the case may be. Table LX, below, reflects another type of arrangement according to activities performed. In the smaller districts a few policemen and their officers must necessarily scatter their efforts among the varied functions as occasions demand.

TABLE LX¹
PER CENT DISTRIBUTION OF POLICE EMPLOYEES
BY TYPE OF POLICE ACTIVITY, 1938

Distribution of Personnel	Population Groups of Cities			
	35 Cities over 250,000	57 Cities from 100,000 to 250,000	101 Cities from 50,000 to 100,000	184 Cities from 25,000 to 50,000
Office of Chief or Commissioner	0.6	1.5	2.2	3.5
Communications and records	6.4	6.0	5.9	5.2
Foot patrol	33.2	31.8	32.0	34.7
Motorized patrol	19.9	21.0	21.9	22.4
Indoor assignments (desk sergeants, etc.)	6.1	6.0	7.5	10.2
Detective bureau	11.9	12.0	10.9	8.1
Traffic bureau	11.4	14.9	14.6	12.0
Miscellaneous (professional, inspectional, and property maintenance services, etc.)	10.5	6.8	5.0	3.9
Totals	100.0	100.0	100.0	100.0

Coordination of Policemen and Functions. It is estimated that there are 120,000 policemen protecting the cities² of the United States, and that more than half of these are employed by municipalities of over 250,000 population. These figures do not include the independent park forces nor do they embrace private watchmen, special police, and commercial and industrial guards.³ There are no reliable figures as to the number of private police, but in Chicago they seem to be at least as numerous as the municipal guardians of the law, including 1000 watchmen employed by the railroads alone.⁴ Their existence may reflect the inadequacy of public police protection.

The Adequacy of the Force. Although "the police forces have increased more rapidly than the population,"⁵ it is probably true that American police units have not been enlarged to a degree com-

¹ Smith, *op. cit.*, p. 142.

² These include all places of over 2500 population. They contain a total of about 70,000,000 people.

³ Bruce Smith, pp. 128-129. According to *Urban Government*, I, *op. cit.*, p. 279, there are approximately 300,000 civil and private police in the United States. These entail an annual expenditure of about a half billion dollars.

⁴ President's Research Committee on Social Trends, *Recent Social Trends in the United States*, McGraw-Hill Book Company, Inc., New York, 1933, p. 1140.

⁵ *Ibid.*, p. 1139.

mensurate with their rapidly evolving functions and the growth in the areas of the cities they serve. In spite of the use of motorcycles and squad cars for men who formerly patrolled beats on foot, and the development of automatic traffic signals, the police departments of American municipalities are undermanned in comparison with European cities of the same size.¹

More serious still, the duties of police departments in American cities have increased by leaps and bounds in recent years. Aside from the difficult work of directing traffic, which was in its infancy only thirty years ago, and the historic function of preventing crime, urban police departments must provide details for numerous purposes, including preventing accidents, enforcing trade, sanitation, liquor, and other ordinances, guarding important individuals and public buildings, assisting in disaster relief, patrolling strike areas, controlling public meetings, censoring moving pictures and theatrical productions, impounding dogs, and searching for missing persons and stolen automobiles.

Distribution of Police Activities. Thus it has come about that only slightly more than half of the average urban police force is engaged in foot and motorized patrol duty, which is the most important aspect of its work. (See Table LX.) The percentage distribution of police activities in large and small cities is, by and large, surprisingly similar, except that in the smallest municipalities, the detective and traffic bureaus each require the services of from about 11 to almost 15 per cent of the available man power.² In addition to such categories as Communications and Records, and Indoor Assignments, the grouping labeled "Miscellaneous" in Table LX reflects the previously noted specialization of functions in modern urban policing.

Small Force Inadequacies. In spite of the fact that the incidence of crime in small cities is lower than in large cities,³ the former also suffer from inadequate police protection. This is occasionally revealed in their inability to cope with rapidly moving professional criminals. The manifold reasons for this include, among others, the

¹ Munro, *Municipal Government and Administration*, Vol. II, p. 196.

² Important administrative problems like traffic control and the selection and training of detectives must be omitted from this chapter because of lack of space. See Smith, *Police Systems in the United States*, pp. 154-155; and Fosdick, *op. cit.*, pp. 326-353.

³ See National Resources Committee, *Urban Government, op. cit.*, the section on The Effect of City Size on Crime Rates, pp. 265-267.

following: absence of cooperation from constables and sheriffs, conflicting jurisdictions, lack of trained man power and equipment, and inadequate funds for general protective activities.

The Unification of Policing. The metropolitan area of Chicago contains about 350 public and 350 private police forces.¹ This is only one illustration of the extreme decentralization of police authority, a defect which interpenetrates all three levels of American government. However some steps toward unification have already been taken. Cooperative relationships among the federal, state, and local police are increasing. Metropolitan centers like Boston, New York, and Chicago are increasingly aiding their "satellite" ² towns and cities in the use of the radio, teletype, and identification equipment. But much remains to be done before man power and functions are fully coordinated for effective crime control.

Mechanical Devices in Policing. Mechanical equipment has helped much in the solution of the problem of keeping the police abreast of their rapidly evolving functions. The best illustration of this is the use of the squad car equipped with a two-way radio. The crews of these motor cars may be used both for patrol purposes and for quick response in emergencies. Again, where cities have expanded greatly without increasing their police forces, motorized policemen have helped to make up for the resulting inadequacies of man power. Finally, evidence can be adduced to show that the police radio has decreased crime.³

Communication Aids and Weapons. Besides the automobile and the motorcycle improved police equipment includes modern weapons and scientific crime detection devices. A brief résumé of these developments might include the following: (1) the exchange of the watchmen's staff and rattle (designed to warn malefactors that the guardian of the law was approaching!) for the 14-inch club (Boston, 1854)⁴; (2) a police telegraph system (Boston, 1855); (3) the police telephone (Washington, D. C., 1878); (4) a colored light flashing-signal system—now largely superseded by the radio—(Los Angeles, 1905); (5) police radio stations (Canadian Mounted Police, 1926—

¹ Charles E. Merriam, Spencer D. Parratt, and Albert Lepawsky, *The Government of the Metropolitan Region of Chicago*, University of Chicago Press, Chicago, 1933, p. 86.

² A term applied to a municipality which is politically independent of but economically and socially dependent upon a large city.

³ National Resources Committee, *Urban Government*, *op. cit.*, p. 290.

⁴ *Ibid.*, p. 289.

1930); (6) radio service to other communities (Chicago police were the first with this); (7) the teletypewriter, which combines the speed of the telephone or telegraph with the accuracy of the typewriter; (8) photographs and fingerprints sent by wire (1921) and by telephone (1925);¹ (9) police mounted on horses, which are still retained largely for the control of unruly crowds and for sentimental reasons; (10) the partial replacement in recent times of the revolver by the submachine gun; (11) the radio blockade of escaping criminals; and (12) city- or state-owned and operated police radio systems which can provide hook-ups between as many as several hundred cities.

Detection Devices. Science has been as generous in furnishing the police with crime detection and criminal identification aids as it has been in affording them weapons and channels of rapid communication. One incidental result of this has been the apparent lessening of the use of the "stool pigeon," the bribed informer or spy so common in earlier times.

Crime detection laboratories, like that of the FBI and the one acquired a few years ago from Northwestern University by the Chicago Police Department, have at their disposal many devices, among which the following are some of the most prominent:²

1. *The Lie Detector or Polygraph.* This device, first used by August Vollmer, ex-police chief of Berkeley, California, operates on the theory that the stress of deceiving under questioning creates tensions which affect the breathing and the blood circulation, and causes the palms of the hands to perspire more freely than before. Courts are sometimes reluctant to accept lie-detector evidence.

2. *The Use of Ballistics.* This is the science of the motion of projectiles. A bullet found in a murdered man may be checked with a test bullet fired through the gun of a suspected person.

3. *Bertillon Measurements and Fingerprints.* The first are exact measurements of such bodily characteristics of each individual as the height, length, and width of the head, length of the middle finger, length of the foot, and so on. These measurements are classified and, with the aid of special birthmarks or peculiarities, are

¹ V. A. Leonard, *Police Communication Systems*, University of California Press, Berkeley, 1938, pp. 2-50.

² Sanford Bates, "Science to the Rescue," *Prison and Beyond*, The Macmillan Company, New York, 1937, Chap. VII, pp. 111-126.

used for identification. Difficulties with the system are the self-mutilation of the suspected person, his natural variations in the course of the years, and the possibility of errors in measurement. For these and other reasons Bertillon measurements have been superseded as a method of identification by fingerprints, which do not change throughout life.

4. *Modus operandi Files.* These were first developed in England and are still used extensively there. They consist simply of the names of criminals together with descriptions of their known methods of operation.

5. *Microscopy.* This consists of the use of the microscope for the examination of typewriting, hairs, bits of clothing, and so on for purposes of criminal identification.

6. *Miscellaneous Methods.* These include the use of chemicals for the examination of bloodstains and other substances; scientific handwriting tests; the matching of woods, as in the Lindbergh case, and so on.

The police machinery described above is impressive in its scope, yet it will always remain true that good machines are no substitute for good men.

Police Personnel Procedures.¹ "The policeman's art, then, consists in applying and enforcing a multitude of laws and ordinances in such degree or proportion and in such manner that the greatest degree of social protection will be secured."² How shall the public servant equipped with a uniform, a club, a gun, and a badge attain proficiency in the "policemen's art"?

Entrance and Dismissal Provisions. Police personnel administration is not essentially different from that prevailing in other governmental departments.³ Three-fourths of the urban police forces are under civil service. The most common eligibility bases for the written examinations are a common school education, citizenship, and local residence. Minimum height, weight, and certain other physical qualifications are usually required of candidates, who must not have had a police record. Military experience is frequently demanded of police recruits in Europe but not in the

¹ Limitations of space prevent the discussion of many details of police administration, such as property maintenance, uniforms, lock-ups, and riot controls.

² Smith, *Police Systems in the United States*, p. 12.

³ See Chap. XXXIX, Public Administration.

United States. A civil service commission may have the power not merely to give entrance and promotional examinations, but may be, as in Chicago, the final authority, except for the courts, on dismissal from the force.

Working Conditions. As for working conditions, salaries range from about \$1000 to \$2500 for the rank and file; and for officers from \$2500 to \$12,500, the latter being the compensation of the New York commissioner. After a recruit's probation period is over, systems of awards and punishments help to keep him under semi-military discipline. Promotions are awarded on the basis of written examinations or sometimes through political influence. Welfare provisions cover such matters as rest days, vacations, sick leaves, and disability or retirement pensions.

Training Schools. Mention has already been made of the National Police Academy conducted by the FBI. Between 1920 and 1941 "all cities over 500,000 population, together with a few score of smaller cities"¹ set up their own training schools. Several states have created regional or zone schools for the benefit of the policemen of small villages and towns.²

The New York police training school was one of the first to be established. Among its twenty subjects of instruction are geography of the city, criminal law, accident prevention, city ordinances, court procedure, fingerprinting, report making, election law, and police administration.³ New York's school is hardly typical of the rest, many of which are hardly worthy of the name. In fact nowhere except possibly in Berkeley, California, where there is a three-year curriculum, in New York, and a few other places is there afforded adequate training of the man who must on various occasions be judge, jury, and jailer.

The Police and the Administration of Justice. Without the support of an efficient and effective administration of justice good police work is impossible. How defective that administration is in America is known to many observers, both experts and laymen.⁴ Yet judges sometimes complain that the police bring to them insufficient evidence to convict or even to hold for trial a person who

¹ See Chap. XXXIX, *Public Administration*, p. 165.

² National Resources Committee, *Urban Government*, *op. cit.*, p. 287.

³ Fosdick, *op. cit.*, pp. 300-305.

⁴ See Chap. XL, *The Administration of Justice*.

has probably committed a crime. On the other hand, the police blame the courts for undue leniency, and criticize political parole boards which prematurely release dangerous convicts, who, being without adequate supervision, readily return to a life of crime.

The relation of the police to other law-enforcing agencies recalls to mind the question of the "third degree," or the use of force and coercion by the police to extort a confession from an apprehended person. All observers agree that the use of the third degree has been widespread. It is believed that this practice is dying out, largely because the officers of the law have come to realize that juries will not even convict a guilty person against whom the third degree has been used. The interrogation of the prisoner by trained police lawyers and an immediate hearing before a magistrate would, according to students of crime detection, make the third degree unnecessary.

The Police and the Public. It is generally conceded that the police department of a city is one of the departments most subject to corrupt influences. Underpaid policemen seek the aid of politicians in getting promotions; they sometimes look the other way when bribed by large and small law violators; they carefully refrain from raiding gambling places "protected" by politicians lest they be "sent to the sticks" or suffer a worse fate; or they become partners in dishonesty with motorists who employ bribery to avoid a traffic ticket. The number of respectable citizens who want something "fixed" is great, indeed. "In city after city and in state after state, it is literally true that the general public does not want law enforcement in the strict sense of the term."¹

All this is to say that both policemen and citizens are responsible for the ills which afflict police departments. Ignorance, insolence, and corruption are often mutual. Apparently it will be a long time before nursemaids stop using policemen as bogeys to frighten children; before the American policeman, unlike the London "bobby," can dispense with a gun; before police departments in the United States become fully professionalized; or before householders previous to going on vacation leave the keys to their homes at the nearest police station, a custom which prevails in certain parts of England and Scotland.

¹ Smith, *Police Systems in the United States*, p. 5.

Crime Prevention Efforts. There is evidence showing that the police of some cities are awakening to the necessity of convincing the public that they are as interested in eradicating the social roots of crime as in apprehending delinquents and criminals. To this end New York City (1930), Berkeley, California (1925), Chicago, and certain other municipalities have established crime-prevention bureaus.

The chief activities of a crime prevention unit are the supervision of public places, such as dance and pool halls; advising parents of children who show delinquent tendencies; making known social agencies that work with problem children; and working with boys' clubs and organizing recreational activities for boys.¹

In some places which have not organized such bureaus the police department has been active in the formation of bicycle clubs, boys' safety patrols, and the like. It must be added, too, that wherever policewomen have been employed they have rendered valuable service in the treatment and prevention of juvenile delinquency.

The Stream of Police Service. It has been truly said that: "The heart of police work is the contact of the individual policeman with the citizens."² The Boston police strike of 1919 showed that cities of any size cannot dispense with their police force for a single hour or permit policemen to strike. Truly the public expects much of its police, but "the policeman has too frequently failed to secure public approbation for honest and efficient efforts."³

FIRE PROTECTION AND PREVENTION

Fire Losses in the United States. Even in these days of astronomical defense and war budgets, annual American fire losses loom large, as is shown in Table LXI.

The most striking trends which this table reveals are the tripling of losses between 1915 and 1925, and the more than halving of fire damages between 1930 and 1935. No reliable explanations of these fluctuations exist, but one might speculate that the first reflects the American habit of tolerating avoidable waste, and the second the equally established disposition to do something about a situation

¹ National Resources Committee, *Urban Government*, *op. cit.*, p. 292.

² Fosdick, *op. cit.*, pp. 305-306.

³ Elmer D. Graper, *American Police Administration*, The Macmillan Company, New York, 1921, p. 8.

after it has become intolerable. The fact remains that conflagrations still place an annual burden of over \$2.00 on every man, woman, and child in the United States. The total 1940 fire loss estimate (\$286,000,000) would build forty-seven destroyers. More serious still, fires were responsible for 7145 fatalities in 1938,¹ and for 1100 in 1940.²

TABLE LXI³

FIRE LOSSES IN THE UNITED STATES, 1915 TO 1940

1915	\$172,000,000	1936	\$267,000,000
1920	448,000,000	1937	254,000,000
1925	559,000,000	1938	266,000,000
1930	502,000,000	1939	275,000,000
1935	235,000,000	1940	286,000,000

Types of Fire Hazards. The large number of American fire dangers have been grouped into three categories, each of which may be subdivided almost indefinitely.⁴

1. *The Physical Hazard.* This danger arises from the faulty design of structures — having, for example, open stair wells running from basement to roof, or wooden floors — and their construction of combustible materials. “A large frame building with a shingle roof is a fire hazard no matter what its use, location, or design.”⁵ This illustrates one of the main reasons why fires were more common in American than in European cities, since the latter, unlike the former, owing to the scarcity of lumber, for centuries have had to use almost exclusively stone, steel, brick, concrete, or other non-combustible building materials. Obvious remedies for American cities are the greater use of fire-resistant steel (Incidentally, there is no such thing as a building which is fireproof under all circumstances.) and the establishment of fire zones. Fire-zone ordinances prescribe the permissible construction types — these are classified as to the amounts of fire-resistant materials used — in the districts into which the city is divided.

¹ *Ibid.*² Eliot Ness and Jo Chamberlin, “Fire, Hitler’s Strongest Weapon — America’s Fiercest Saboteur,” *Look*, V: 14–16, Oct. 7, 1940.³ From National Safety Council (Statistical Bureau), *Accident Facts*, 1941 ed., Chicago, 1941, p. 109.⁴ Munro, *Municipal Administration*, p. 419.⁵ *Ibid.*

2. *The Occupational Hazard.* The zoning and building codes of a city prescribe not merely the component materials of structures within the various zones, but also their height, the percentage of the lot area they may occupy, and the purposes for which they may be used. Buildings housing industries of a hazardous character¹ give rise to the occupational hazard. Examples of such establishments which readily come to mind are foundries, planing mills, oil refineries, paint and lacquer factories, public garages, junk shops, shoddy mills, and munitions factories. Moving-picture theaters have a high occupational hazard by reason of the combustibility of the films they use. There, as well as elsewhere, zoning laws must be supplemented by stringent protective regulations.

3. *The Moral Hazard.* This is the danger arising from the negligence or harmful intent of individuals. "It is the opinion of fire experts that the personal equation is responsible for fire losses to a greater degree than all other factors combined."² More electrical devices and inflammable articles, particularly those made of nitrocellulose materials, are used in the United States than anywhere else in the world. But aside from this consideration, carelessness with respect to matches, cigars and cigarettes, rubbish, leaky gas pipes, exposed electric wires, cleaning fluids, and fireworks creates no end of fires. The National Safety Council has estimated the ten highest 1939 fire losses by cause as follows: (1) electrical, \$26,000,000; (2) spontaneous ignition, \$15,400,000; (3) defective chimneys, flues, \$15,000,000; (4) smoking, \$14,000,000; (5) sparks on roof, \$14,000,000; (6) incendiary, suspicious, \$11,000,000; (7) explosions, \$9,000,000; (8) defective, overheated heaters, \$8,600,000; (9) lightning, \$8,500,000; (10) lamps and stoves, \$5,200,000.³

One of the above items, "incendiary, suspicious," should be further explained. This refers to the malicious burning of property by pyromaniacs, who like to see it burn, by racketeers who plan to collect illegitimate tribute, or by dishonest businessmen and house owners. These latter people, when tempted by a too high insurance value placed on their buildings by underwriters desirous of collecting high premiums, surreptitiously burn their property to collect the insurance on it, thereby committing the felony known as

¹ See also Vol. I, Chap. VI, Health, section on Industrial Health Programs, p. 139.

² Munro, *Municipal Administration*, p. 416.

³ *Accident Facts*, *op. cit.*

"arson." The evidence necessary for convicting an individual of this crime is usually difficult to obtain.

In the United States an owner whose property is damaged by flames is looked upon with sympathy, even though he may have been negligent, whereas the Roman-Napoleonic Code of Continental Europe requires a fire sufferer to explain to the authorities why flames broke out on his premises. He also becomes liable to damage claims from his landlord and neighbors if his carelessness or crime causes their possessions to be consumed.¹

Fire hazards are enormously increased in war time. "Match-box and tinder" buildings are readily burned by incendiary bombs; establishments housing dangerous occupations or industries, if destroyed, help to spread flames far and wide; and panic, if accentuated by ignorance, fear, or possibly treasonable sabotage, causes as much destruction as the missiles of the enemy.

Fire Control. After the above hazards and others are reduced to a minimum by the enforcement of fire-prevention ordinances or state laws, by fire-prevention bureaus, and by a program of safety education, fire-fighting machinery must be provided to overcome the inevitable conflagrations.

Fire Department Organization. The necessity for a proper organization for effective fire control is shown by the fact that areas of less than 2500 population suffer about 60 per cent of the total fire losses.²

This great rural percentage is probably to be accounted for by the lack of adequate water facilities, the less efficient equipment, the lack of alarm systems, and the inconvenient and distant location of equipment. Furthermore, fire inspection only infrequently reaches rural areas.³

Thus, not only do fire losses vary inversely with the size of the city, but as per capita expenditures for salaries, operations, and maintenance increase conflagration losses decrease.⁴

Much of what has been written about the organization of a municipal police force applies to a city's fire department. In large cities each usually has an appointive commissioner who directs the general policies and the public relations of the department, and a chief who commands and supervises the rank and file. In

¹ *Safeguarding the Nation against Fire*, The National Board of Fire Underwriters, New York, pp. 5-6.

² National Resources Committee, *Urban Government*, op. cit., p. 294.

³ *Ibid.*

⁴ *Ibid.*, p. 297.

the smaller places the two offices are sometimes combined. Firemen generally are organized on a semimilitary basis with privates, lieutenants, and captains grouped into engine and ladder companies (thirteen to fifteen men), and battalions.

Fire Stations and Equipment. City fire stations as a rule contain dormitories in which the men who work on long shifts may get some quiet or interrupted sleep. Fire stations provide storage for the apparatus, including motorized pumping engines, "Foamite" trucks for dealing with oil fires, ladders, hose reels and wagons, trailer pumps, chemical extinguishers, gas masks, asbestos suits, and searchlights. Certain other mechanized equipment, like fire boats, is kept elsewhere. This apparatus has long since replaced the old-time leather buckets and hand-operated squirts, but some volunteer companies reminiscent of former days are still found in the smaller American towns and cities. One of the greatest difficulties fire departments face is the keeping of their equipment adequate and up-to-date. The efficient New York Fire Department has a large bureau which does repair work alone.

Fire-Alarm System. Fire stations also serve as outposts for the fire-alarm signals centralized at headquarters. This alarm system is also connected with numerous electric public fire-alarm boxes. Thus there is formed a network which enables the fire chief to call the nearest engines to fires. Sometimes in the case of a large fire intercity companies are mobilized.

Personnel Procedures. In the larger cities firemen, like policemen, are selected under civil service rules by means of physical and mental tests. Probationary firemen are sent to training schools for from fifteen to sixty days. There they learn fire-prevention regulations, the care of fire-fighting apparatus, wall scaling, fire fighting and rescue work, and the use of *pulmotors* for reviving persons overcome by gas or smoke.

Salaries are on the average about the same as those of the police. Promotions are based on seniority, personal efficiency, and politics. Civil service members of the fire department can be penalized for breaches of discipline, but cannot usually be dismissed except on definite charges and after a formal hearing. Pensions, which begin at a retirement age of from sixty to sixty-five years, are provided in most of the larger cities.

Sometimes one finds a city in which the fire department operates

on a relatively higher plane of efficiency than its police force. Some of the reasons for this are as follows: (1) The fire department has a smaller range of duties to perform than the police unit, and can therefore concentrate its effort to a greater degree. (2) There is, as a rule, less political graft in fire fighting than in police work. (3) Private fire protection devices in the form of special watchmen, standpipes, chemical hand extinguishers, and automatic sprinklers¹ have supplemented public fire protection to a greater degree than private watchmen have aided in police work. (4) The National Board of Fire Underwriters, through its comparative ratings of cities and otherwise, continually presses for higher standards of public fire protection. Other private organizations assist in this enterprise.

Cooperation of Firemen and Police. Even though it is said that fire fighting and police work differ because the former has to do largely with things and the latter with persons, some cities, like Cleveland, Ohio, have combined their firemen and policemen into a single department of public safety. Eliot Ness, Safety Director of Cleveland, in emphasizing the need for cooperation between these two protective arms, suggests that firemen should have greater police powers, and policemen should have more fire duties; and that firemen should work in squad cars equipped with two-way radios while inspecting buildings, removing fire hazards, and educating the public.² Perhaps one useful lesson that might be taught is that a fire means a loss not merely to an insurance company but to nearly everybody, since insurance premiums increase business costs, which are usually passed on to consumers.

OTHER CIVILIAN PROTECTION SYSTEMS

Public Health and National Safety. Enlarged public-health programs³ reflect the growing awareness of Americans that there is a vital connection between individual health and national strength. With this in mind there has been set up in the Office of Emergency Management⁴ an office of Defense Health and Welfare Services. The American Public Health Association, the American

¹ These are networks of pipes with solder sprinkler heads which melt in a fire and release streams of water.

² Ness and Chamberlain, *op. cit.*

³ These are described in Vol. I, Chap. VI, Health, pp. 182-186.

⁴ See Chap. XXXIX, Public Administration.

Medical Association, and the American Hospital Association have created national defense committees to work with the Office of Defense Health and Welfare Services. Another indication of this concern was shown by Army authorities and the President when it was found that up to October 10, 1941, 900,000 men called for selective service had been rejected because of physical defects.¹

The President proposed a rehabilitation plan to "salvage" at once 200,000 men of draft age, while looking forward to a long-range program of Federal government cooperation with states, counties, cities, and townships to create a higher health average throughout the nation.

Civilian-Military Health Cooperation. Just as soldiers in huge cantonments near small towns and defense workers in ordnance or munitions centers have stretched to the limit the local police and fire services, so they have placed overwhelming burdens on the health authorities. This has resulted in a reexamination of health problems and health facilities, with a view to the coordination of the health services given by the three levels of government, and perhaps the joint creation by the military and civil authorities of a uniform sanitary code.

Safety and Health Inspection. In modern times all progressive American cities have developed many inspectional services in the interest of public safety, largely because certain hazards cannot be overcome by the regular law-enforcement officers alone. These have more than they can do in apprehending offenders, whereas inspectors aim to prevent violations of the law. It is true, nevertheless, that police and firemen have inspectional duties. "Inspection is essentially the viewing of a condition and the making of a judgment as to whether the condition is in compliance with public policy."² Some objectives of the inspectional procedures are:

1. *Safety in transportation* sought through the inspection of ships, railway equipment, motor cars, airplanes, and elevators;
2. *Safe working conditions* sought through the inspection of mines, quarries, boilers, factories;
3. *Fire prevention* achieved through the discovery and elimination of the hazards;

¹ *Chicago Daily Tribune*, Oct. 11, 1941.

² Leonard D. White, *Introduction to the Study of Public Administration*, The Macmillan Company, New York, 1939, Chap. 3, "Inspection," p. 484.

4. *Commercial honesty* secured by the enforcement of standards of weight and quality; and

5. *Public health* sought through the inspection of milk and other foods, housing, sanitary facilities, water supplies, and the physical examination of school children and others.¹

Confiscated Property. It may be recalled that owners of property destroyed by inspectors acting under the police power may claim no compensation from the government. It is said that inspectors from the Chicago Health Department, some of whom travel throughout the large milkshed of the city, destroy 3,000,000 pounds of unfit food per year.²

Qualifications for Inspectors. That inspectors should be technicians with a special knowledge of their subject matter goes without saying. Some inspectors are under the merit system, but unfortunately for the safety of the public, others are chosen more for their ability to carry their precincts or wards than for their knowledge of the work. This was exemplified in Chicago in 1934 when a water tower, while crashing from the roof of a building to the basement, caused a loss of several lives. A short time previously the tower had been inspected and passed by a politically appointed building inspector.

Peacetime Public Safety Education. Since so many of the hazards of modern life which meet the unwary everywhere in the country as well as in the city are owing to individual carelessness, entire reliance cannot be placed on policemen, firemen, and inspectors, however efficient they may be. Their efforts must be supplemented and reinforced by school and adult programs of safety education. In this field the United States Office of Education, the National Safety Council, industrial safety departments, the Red Cross, and other organizations are doing much to help.

Civilian Defense Planning and Total War. The old Latin motto, *Salus populi est suprema lex*, "The safety of the people is the supreme law," finds its best application in modern total war, which no longer recognizes any distinction between civilians and soldiers. Since in the event of war every city street is likely to become a front line for the enemy bombers for the purpose of destroying factories,

¹ *Ibid.*, p. 487.

² Robert F. Steadman, *Public Health Organization in the Chicago Region*, University of Chicago Press, Chicago, 1930, p. 240.

public morale, and lives, civilian defense training must be continuous, permanent, efficient, and thorough.

Stimulated by this realization, which the tragedy of the thousands of dead in London and the cities of Continental Europe had already brought home to the American people, President Roosevelt established by an executive order on May 20, 1941, the Office of Civilian Defense as a part of the Office for Emergency Management. When the drive to coordinate the civilian defense activities began, Director Fiorello H. LaGuardia found already in existence 40 state defense councils and 1500 local councils,¹ together with many other private or semipublic defense groups like the American Women's Voluntary Services,² the Red Cross, and others.

During the time it has been functioning the Office of Civilian Defense has laid plans to bind together in a vast network the defense councils of every state, which will see that educational pamphlets, instructions, and orders are transmitted to the officials of their smallest hamlets. Figure 53 shows the type of organization the Office hopes to effect and perfect throughout the United States.

A vast scope of the work on the part of a Civilian Defense Force is called for to keep to a minimum fear, confusion, disorder, panic, and deaths in case of attack. Among the activities of a Civilian Defense Force are the work of air-raid wardens who clear the streets and direct people to bomb shelters; "spot" and fire wardens who watch for incendiary bombs and deal with them promptly; first-aid parties; demolition squads which raze hazardous walls and buildings; repair groups; labor units; and sanitary patrols. These are composed largely of volunteers, as are the auxiliaries who assist the overburdened police, fire, and health departments in many types of safety work during the present war. Thus every non-combatant British subject is now required to register for fire duty, and there are at present 250,000 men in the national fire service, the largest in the world. In short, effective total defense requires the efforts of the total able-bodied population.³

¹ William Don Boutwell, *et al.*, *America Prepares for Tomorrow*, Harper & Brothers, New York, 1941, p. 56.

² Fred Allhoff, "What You Can Do for Civilian Defense," *Liberty*, 18: 16-17, 34-35, Oct. 25, 1941.

³ Fiorello LaGuardia, "If Enemy Bombers Come," *Chicago Daily News*, Aug. 16, 1941. See also J. Mitchell, "If the Bombers Come to Us; Safeguards Against Air Raids on Our Cities," *Living Age*, 360: 532-538, Aug., 1941.

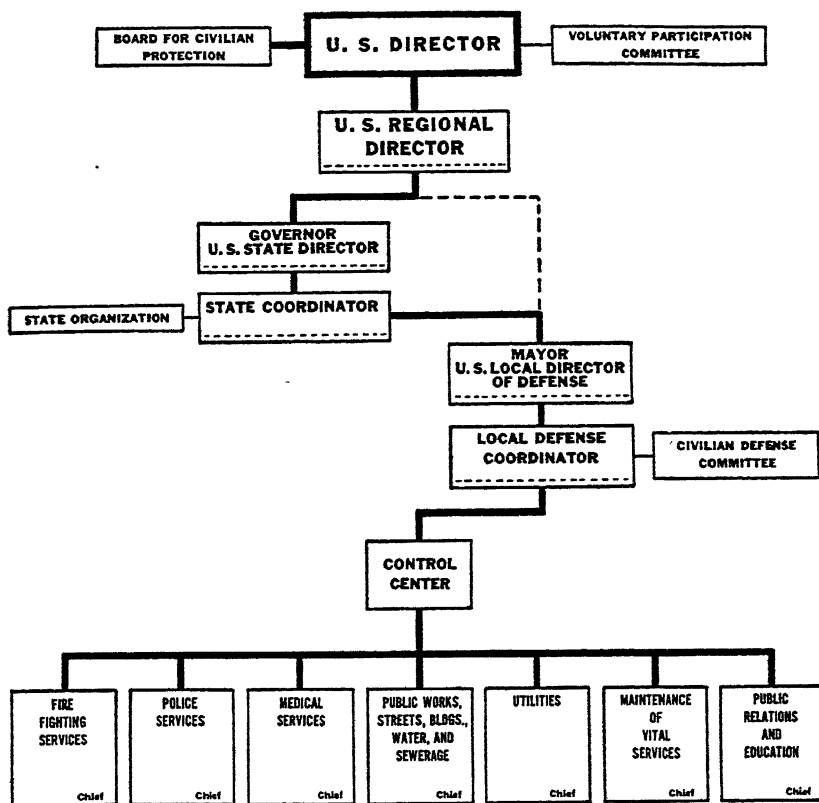


FIG. 53. PROPOSED ORGANIZATION — OFFICE OF CIVILIAN DEFENSE

From U. S. Office of Civilian Defense, F. H. LaGuardia, Director, *Local Organization for Civilian Protection*, Washington, D. C., July 17, 1941, p. 2.

TERMS TO BE UNDERSTOOD

arson	fire zone
automatic sprinkler	microscopy
ballistics	<i>modus operandi</i> file
beat	<i>posse comitatus</i>
Bertillon measurements	platoon
bureau of investigation	polygraph
crime detection laboratory	pulmotor
"fence"	pyromaniac
fingerprinting	radio blockade
fire hazard, moral	<i>subpoena</i>
fire hazard, occupational	teletypewriter
fire hazard, physical	two-way radio

QUESTIONS FOR DISCUSSION

1. Which is preferable, a "substitutional" or a "cooperative" relationship between national and state protective agencies on the one hand and local safety offices on the other?
2. Why are so many rural sheriffs and constables unable to grapple with professional criminals?
3. Account for the rapid growth of state police systems.
4. Should a police commissioner be a civilian or should he rise from the ranks?
5. Make organization charts for your police and fire departments in the light of the principles discussed in this chapter.
6. Outline the strong and weak points in the work of your police and fire departments.
7. How may police departments be made less susceptible to corrupt influences?
8. Explain why a policeman must often be "judge, jury, and jailer."
9. How may the courts help to make police work more effective?
10. Explain why the relationships between the police and the public are much more cordial in England than in the United States.
11. Outline a reasonably adequate program of peacetime safety education for your town or city, listing the names and activities of the agencies now engaged in this work.
12. Explain the fire prevention work of the public and private agencies in your community.
13. Are the safety and sanitary inspectors of your community selected on a political or a merit basis?
14. How could the sanitary code of your town or city be improved?
15. Explain how the present war will inevitably increase the duties of the police, fire, and health agencies of your community.

FOR FURTHER STUDY

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PUBLIC REVENUE AND TAXATION

NATURE OF THE PROBLEM

No one, it is fair to assume, is eager to pay taxes; yet everyone desires some of the benefits of government. No one wishes to pay more than his fair share of governmental revenues. Some interest groups desire many benefits but low taxes for themselves, while others prefer low taxes even at the sacrifice of some governmental services. There are some functions of government which may not safely be given up, regardless of the cost. Protection against enemies from without and maintaining law and order within a country are the minimum essentials of a civilized society. But a government may wisely undertake many other functions which private enterprise cannot perform so well or would not be able to perform at a profit. A government can build sewers and otherwise protect the public health; it can dredge harbors and put up lighthouses; it can build roads; it can construct and operate canals, tunnels, and airports; it can maintain a postal system; it can take measures to conserve the natural resources; it can maintain a free public school system; it can provide parks and other means of recreation.

These and many other things a government may provide for its people if the people are willing to pay for these services. The problem of public revenues, then, concerns us all. Funds for the support of governmental undertakings come from many sources. Governments have not always been financed by taxation. In medieval times the monarch was supported by his own private estates and those wrested from others. Feudal dues came before the levying of taxes. In colonial America government was supported largely by fees. Even today some services are maintained in this way. Before considering taxes, some attention should be given to nontax revenues.

NONTAX REVENUES

There are numerous public revenues which may be classed ~~as~~ as nontax revenues — payments which come into the public treasuries more or less regularly but which are not strictly compulsory in nature. These consist of such items as the earnings of public enterprises, such as the United States Post Office and the municipally owned utilities; grants-in-aid to the states from the Federal government and to the local units of government from the states and the Federal government;¹ earnings of the administrative departments; rents, interest, and other charges by governmental authorities; fines, forfeits, and escheats;² and finally gifts and pension assessments of public employees.

Table LXII indicates the proportion of revenue derived from tax sources as compared with those derived from nontax sources — grants-in-aid and shared taxes being excluded.

TABLE LXII³

FEDERAL AND ESTIMATED STATE AND LOCAL GENERAL GOVERNMENT FINANCIAL
TRANSACTIONS FOR THE FISCAL YEARS ENDING IN 1932 AND 1938
(In Millions of Dollars)

Revenue	Federal		State		Local		Total		
	1932	1938	1932	1938	1932	1938	1932	1938	Per Cent Change
Tax revenue	1889	6034	1701	3857	4657	4920	8247	14,811	+ 79.6
Nontax revenue	117	208	307	345	789	628	1213	1,181	- 2.6
Total revenue	2006	6242	2008	4202	5446	5548	9460	15,992	+ 69.0

An important problem in relation to nontax revenues is whether to increase them and thus make possible a reduction in taxation, or prevent an increase in the public debt, or avoid the issuance of paper money. Since an increase in the charges for postal services, instruction in state universities and other institutions of higher

¹ Grants-in-aid differ from other nontax revenues in that while they are nontax revenues to the units of government receiving them they may and usually do come from tax revenues levied by the unit granting the aid.

² An escheat is property which reverts to the state upon the death of the owner who has no heirs and leaves no will.

³ From *The Bulletin of the Treasury Department*, Aug., 1939.

learning, and public utility and other services might have the effect of reducing the use of these services (which would thereby endanger general welfare), it seems undesirable to attempt to increase such nontax revenues. Such items as grants-in-aid may well be increased if the moneys used for such purposes are more equitably collected than those they displace, and if the functions for which the moneys are expended may be fairly assumed to belong to the larger unit of government from which the grants-in-aid come.

TAX REVENUES

A tax is commonly defined as a compulsory payment for the support of public services. These payments are increasing in total amount and constitute an increasing proportion of the national income. Observance of a sound system in making the tax levies is therefore of greater significance than ever before.

The Canons of Taxation. The way in which taxes are levied is no less important than the purposes for which they are spent. Over 150 years ago Adam Smith laid down four conditions which a good tax should meet. (1) It should fall upon different citizens in proportion to their abilities to pay; (2) it should be payable in a manner, at a time, and in an amount made clear and definite by the law; (3) it should be levied at the time and in the way most convenient to the taxpayer; and (4) it should be collectible at small cost in proportion to the revenue which it yields. Today all four of these canons of taxation are widely accepted as guiding principles.

The idea of apportioning taxes according to ability to pay raises several questions. First, should Jones, just because he is able to do so, pay high taxes for an improvement which mostly benefits Smith? Would it not be fairer to tax people in proportion to the benefits they receive? The general answer is that, although in some cases the benefit principle can be and is applied, in most cases the benefits received cannot be measured. If a sidewalk is built in front of my house, I pay a special assessment. If I drive my car on the highways more than my neighbor, I pay more taxes because I buy more gasoline. It is clear in each of these cases that I receive a special benefit although the sidewalk benefits others as well. But when the government spends money to maintain law and order or to train and equip an army, there is no satisfactory

way of apportioning benefits. These expenditures may be essential to the very life of the community and since we are all a part of the community, it is reasonable that those of us who are able to contribute more than others should do so.

But taxing people in proportion to their ability to pay is not so easy as it may seem. To begin with, ability to pay is a hard thing to measure. If Jones has twice the income of Smith, is his ability to pay taxes twice as great, or three or four times as great? Second, even when a man pays a tax, the real burden may fall on someone else. Suppose taxes are increased on the plant of Mr. Anderson, an oleomargarine manufacturer. Will the increase come out of his pocket, or can he pass it on to his customers in higher prices for his product? Third, legislatures are not so much interested in levying equitable taxes as in levying those that will bring least protest. Often these relatively painless taxes fall more heavily on the poor than on the rich. The retail sales tax is a good example. The poor man spends most of his income on things like food and clothing against which this tax is levied. The rich man saves a large part of his income and avoids the sales tax on a good deal of the remainder because he spends it, not on taxable commodities, but on items like servants and travel.

The other three tax canons call for little comment. That taxes should not inconvenience the taxpayer more than necessary and that they should not cost too much to collect is obvious. That the time, manner, and amount of payment should be definite is important for two reasons: (1) so that officials may not discriminate among taxpayers and deal oppressively with some; and (2) so that business undertakings will not be discouraged because tax costs cannot be definitely determined.

The Incidence of Taxes. When we ask what the incidence of a tax is, we mean, on whom does its burden really fall? Does the federal tax on cigarettes come out of the pocket of the manufacturer or of the consumer? Does the landlord or the tenant — or somebody else — finally bear the real-estate tax? Can you pass your income tax on to someone else? To such questions there are no simple answers.

In general, however, whether or not a tax may be shifted and the extent to which it is shifted depends on the elasticity of supply and demand. But what is meant by elasticity of supply and demand?

It may be said that the demand for a good is elastic when a small increase in its price reduces considerably the number of units taken because the marginal consumer¹ ceases to buy and others demand fewer units. The supply of a good is elastic when a small decrease in price reduces considerably the number of units offered for sale because the marginal producers² withdraw and the others curtail their production. Taxes on necessities may be more readily shifted to the consumer than taxes on luxuries because the demand for necessities is less elastic than the demand for luxuries. Taxes on commodities which have a rapid turnover in production and consumption are more easily shifted than those on durable goods. This is because the supply of the former goods is more elastic than the supply of the latter. This means that taxes on food are ordinarily more readily shifted than taxes on furniture but those on furniture may usually be shifted with less difficulty than those on houses, and taxes on houses are more easily shifted than those on land.

Supply and demand are determined in large part by the marginal consumers and marginal producers. If a tax is levied only on nonmarginal producers it does not materially increase the costs of production of the marginal producers, and does not, therefore, greatly influence the price to the public. In other words the tax in such a case cannot readily be shifted. A tax on net income is such a tax. Those who have no net income are not taxed and their costs of production are not increased. They continue to produce at no increase in costs. It is their costs that determine primarily the price of the product. Those who pay the tax on net income, being nonmarginal producers, find it impossible or exceedingly difficult to pass the tax on to the consumers in the form of higher prices.

A sales tax, on the other hand, does raise the costs of production of the marginal producers, causing them to withdraw from production unless the tax can be shifted in the form of higher prices to the consumer. If some withdraw from production, the supply will decrease and the price will increase sufficiently to absorb the sales tax.

¹ A marginal consumer is one barely able to buy at a given price and would drop out if the price were raised by an infinitesimal increment.

² A marginal producer is one barely able to meet the expenses of production when his product is selling at a given price and would drop out if the price were lowered by an infinitesimal amount.

Kinds of Taxes. In the early part of this century nine-tenths of all local, state and federal taxes came from three sources — property taxes, which furnished more than 50 per cent of the total; customs, which furnished more than 20 per cent; and alcoholic beverages which furnished almost 18 per cent; all others furnished only 10.5 per cent of the total. Table LXIII gives the main sources in 1938, just before the outbreak of the Second World War.

TABLE LXIII ¹

FEDERAL AND ESTIMATED STATE AND LOCAL TAX REVENUES FOR THE FISCAL YEAR ENDING IN 1938
(In Millions of Dollars)

Source	Federal	State	Local	Total	
				Amount	Per Cent
Customs	359	—	—	359	2.4
Property	—	214	4531	4,745	32.0
Individual income	1313	249	—	1,562	10.6
Estate, inheritance and gift	417	145	—	562	3.8
Corporate income and privilege	1449	313	—	1,762	12.0
Pay rolls	743	707	—	1,450	9.8
Motor fuel and vehicle	293	1163	25	1,481	10.0
Liquor and tobacco	1136	298	32	1,466	9.9
Sales and other excises	287	717	302	1,306	8.8
Other tax revenue	37	51	30	118	0.7
Total	6034	3857	4920	14,811	100.0
Per capita tax revenues	\$46.48	\$29.71	\$37.90	111.409	
Tax revenues as per cent of national income	8.9%	5.7%	7.2%	21.8%	

Figure 54 gives a graphic picture of the recent trends in federal revenues. It will be noted that Agricultural Adjustment taxes were introduced in 1934 and disappeared in 1936 when the act under which they were levied was declared unconstitutional.

Figure 55, a chart made by the Department of the Treasury, gives a picture of the total receipts and expenditures of local, state, and Federal governments for the fiscal year ending 1938. A consideration in more or less detail of each of the more important taxes is desirable.

The Property Tax. Before 1900 the states derived the larger portion of their revenues from the general property tax, a tax levied

¹ From *The Bulletin of the Treasury Department*, Aug., 1939.

on the assessed valuation of real estate and personal property. By 1922 the states had greatly diversified their tax systems, and they depended, therefore, less than formerly upon the general property tax. Even yet this tax was the one most important source of state revenues, bringing in at that time 40 per cent of all state taxes. Ten years later, in 1932, less than 20 per cent of the state tax revenues came from the property tax, and this had dropped again to 5.5 per cent of the total state tax bill for 1938.

TOTAL FEDERAL RECEIPTS FISCAL YEARS, 1933-1940
(1941-1942 ESTIMATED)

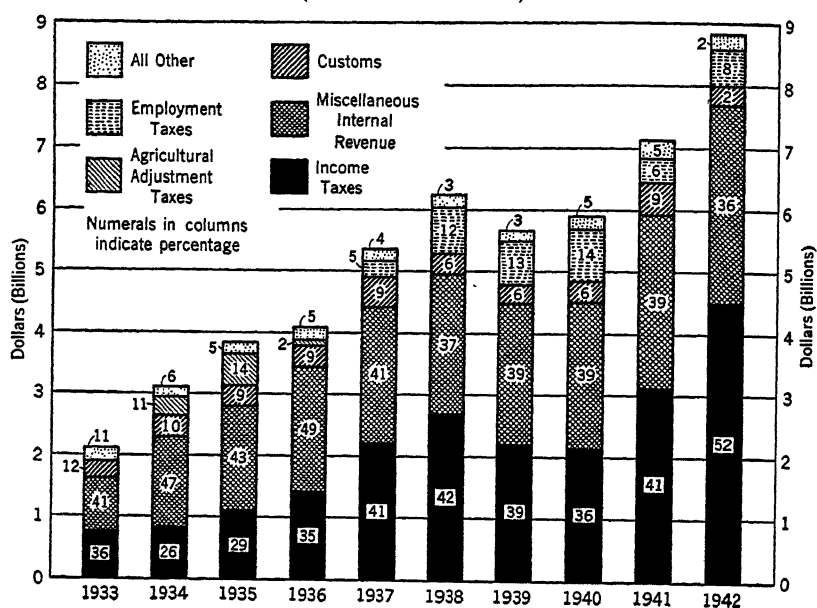


FIG. 54

Source: U. S. Department of the Treasury.

The Federal government collects no property tax. The state governments in 1938 collected about \$214,000,000, and the local units \$4,531,000,000. This total of \$4,745,000,000 constituted about 32 per cent of the total tax bill of the nation for the year 1938, and 90 per cent of the total revenues for the local units of government.

Since the general property tax is virtually the sole source of revenues for the some 175,000 local taxing units, it seems proper to consider some of the more important aspects of this tax. Most

states provide that property shall be assessed at a fair value and taxed uniformly. In most cases, local tax assessors are elected as partisans without any special qualifications or training for assessing property. These local tax assessors frequently make their evaluations in a haphazard and unscientific manner. Nor does their dependence upon the voters for their positions encourage them to be impartial appraisers of property values even if they have adequate training and experience.

In most states all tax rates on property are uniform. This is unfair to owners of some kinds of property. Unimproved property brings no income, while the income on improved property varies in accordance with type and location. Real estate may bring its owner little or no income whereas stocks and bonds may yield large returns. As a result of the injustice of uniform taxes, real estate which cannot be hidden is forced to bear an unfair portion of the tax burden, while intangibles, such as stocks, bonds, and mortgages, escape this form of taxation. This seems bad for two reasons: (1) the burden of government is unfairly apportioned: and (2) the injustice of the system encourages dishonesty on the part of taxpayers and even on the part of officials in charge of tax assessments.

Another aspect of the general property tax that needs consideration is the fact that double taxation is required. Stocks and bonds and mortgages are considered property for tax purposes, but these paper securities actually represent liens on or ownership of tangible property. If the tangible property is taxed, and then if the lien on this same property in the form of a mortgage or bond, or the paper that gives title to the property or a portion of it in the form of a stock certificate, is also taxed, there is definitely double taxation. To illustrate, if a man pays taxes on a home valued at \$20,000 and another pays taxes on a mortgage for \$15,000 secured by this same home, then there is double taxation on \$15,000 of the value of the home. In other words, taxes are being paid on \$35,000 worth of property when in fact there is only \$20,000 worth of property involved, the so-called home owner having a \$5000 equity and the owner of the mortgage a \$15,000 equity in the same house.

Despite the weaknesses of the property tax it seems advisable to retain it for the support of local government, since it serves as the principal source of local revenues and especially since it has many

admirable features as a tax. In the first place, it is a fruitful source of revenue. Since governmental services, and therefore costs, are increasing, it would seem unwise to sacrifice such a fruitful source of revenue unless and until a better one can be successfully substituted for it. In the second place, this tax is relatively easy to administer. Furthermore, the costs of administration are not exorbitant. Finally, it may be said that to remove the tax would increase the value of the property to the present owners to the extent of the capitalization of the increased income accruing from the property by virtue of the removal of the tax.

Possible Improvements of the Property Tax. It has already been pointed out that personal property escapes in large measure the general property tax. It would seem wise to abolish the personal-property tax altogether because of the impossibility of enforcing it and to depend upon other taxes, such as the income tax, to equate the burden of government. Real estate bears today about three-fourths of the burden of the general property tax, and could therefore be depended upon to bring in a large portion of the revenues necessary to support local governments. If this tax were administered by persons chosen and retained on the basis of merit instead of on partisan and political grounds and if double taxation were avoided, it would seem practicable to retain and perfect the real-estate tax.

Excise Taxes. An excise tax is an inland duty levied on the manufacture, sale, or consumption of commodities within the country. The governments are relying increasingly upon excise taxes for support. These taxes may be shifted to the consumer or sometimes backward to the producer. Such taxes are usually levied without consideration of the ability-to-pay principle. When these taxes are selective the sumptuary¹ principle is often the controlling one. The following excise taxes will be considered briefly: tobacco taxes, alcoholic beverage taxes, motor-fuel taxes, motor-vehicle taxes, and general sales taxes.

Tobacco Taxes. The Federal government first levied the tobacco tax, but at the present time all three levels of government levy such a tax. For the fiscal year ending June 30, 1941, twenty-eight states

¹ Sumptuary relates to the regulation of expenditures of individuals, i.e., the tax is designed to discourage the consumption of the commodity upon which the tax has been imposed.

and a few local units of government collected a tobacco tax.¹ The tobacco tax is an important source of revenue, especially for the Federal government, but state and local governments find some difficulty in collecting it since purchases can sometimes be made in near-by jurisdictions. The sumptuary principle seems to have been originally the controlling one, although the effectiveness of a tobacco tax in the United States in discouraging the use of tobacco seems to be questionable. Because tobacco is used widely by all income groups and even by people on relief, tobacco cannot be considered a luxury under present conditions of consumption in the United States, and the tax, therefore, cannot be considered a luxury tax.

Alcoholic Beverage Taxes. The Federal government and every state levies an alcoholic beverage tax in some form. It is, therefore, an important source of revenue to both the Federal and state governments. If heavy taxes on alcoholic beverages discouraged excessive consumption, many people would justify such taxes on that ground alone.² If alcoholic beverages are luxuries which are consumed by those best able to buy, then a tax on them may be considered a selective excise tax levied in accordance with ability to pay.

Motor-Fuel Taxes. Motor-fuel taxes are, of course, recent in origin, being levied first by the state of Oregon in 1919. They are now levied by the Federal government, every state government, and a few local governments, and constitute a very important source of revenue, especially for the states.

Motor-Vehicle License Taxes. These taxes furnish about half as much revenue as do the motor-fuel taxes and are decreasing in relative importance. They are levied by the Federal, all state, and a few local governments. In levying motor-fuel and motor-vehicle license taxes some consideration is given to the benefit principle, since most of the revenue from these two sources is used for road building. The motor-fuel tax is a better tax than the motor-vehicle tax for meeting this benefit principle and this may be one reason why it is being relied upon more in recent years than the motor-vehicle license tax. It would seem that little thought has been given to the

¹ 1941 Supplement to *Tax Systems*, 8th ed., Tax Research Foundation, Chicago.

² It is claimed in Chicago that the increased tax on beer levied at the last session of the state legislature has resulted in no increase in price per glass but a reduction in the size of each glass, and will possibly reduce the total consumption of beer.

question as to whether road building has not been overemphasized as a function of government to the serious detriment of other functions. It is possible that these taxes could be lowered so as to make possible an increase in other taxes, such as the income tax, which may be more equitably levied and used for more important purposes, such as education, recreation, and housing, without increasing the total tax burden.

The General Sales Tax. The general sales tax is the most important single source of state revenues. In Illinois it brought in 34.75 per cent of the total state revenues for the fiscal year ended June 30, 1940; trust funds and treasury balances were not included, but federal aid revenues were. If the federal aid revenues be deducted, this tax produces for Illinois 43.7 per cent of all state revenues; but 71.9 per cent of this was returned to local governments for use. Other states in which the general sales tax constitutes 25 per cent or more of the total state revenues are California, Michigan, Washington, and West Virginia; while Iowa, Kansas, Mississippi, Missouri, New Mexico, North Dakota, South Dakota, and Utah derive more than 20 per cent and less than 25 per cent of their total revenues from this tax. Still other states that have general sales, use, gross income, or gross receipts taxes in some form are Alabama, Arizona, Arkansas, Colorado, Connecticut, Delaware, Indiana, Kentucky, Louisiana, Maryland, North Carolina, Ohio, Oklahoma, Pennsylvania, and Wyoming.

The advantages of a general sales tax are that it is relatively easy to administer and the costs of administration are not high. The objections to such a tax are that it ignores largely the benefits principle and also the ability-to-pay principle. It certainly falls too heavily upon the poor, who must pay most of their income for consumption goods and then in many cases must live below a decent and healthful standard. To take from the lowest income groups in the form of a sales tax such a large portion of incomes, which are not sufficient to maintain a decent level of existence, seems to many persons one of the undesirable developments of recent years. If the sales taxes could be made selective so that the necessities of life, such as food and moderately priced clothing, could be exempted from their provisions, there is much to be said in their favor; and it is to be hoped that those responsible for raising revenues will see the necessity of bringing these taxes within the

canons of taxation recognized as just by all leading economists and statesmen.

Income Taxes. A federal income tax was first levied in 1863 by Congress, and continued in force for ten years. In 1894 Congress enacted an income tax law which was declared unconstitutional on the ground that it was a direct tax and as such must, if levied, be apportioned among the states according to population. In 1909, Congress levied a tax of 1 per cent of the net income of corporations and submitted to the states an income tax amendment to the Federal Constitution which was ratified by the necessary three-fourths of the states in February, 1913. The first federal income-tax law under this amendment was passed in October of the same year. Since then the Federal government has made income taxes a principal source of revenue.

Income taxes may be divided into two parts, personal and corporation. These two constituted in 1938 over 18 per cent of the total federal, state, and local tax revenues. The income tax is the most important single source of federal revenues. For the tax year 1938-1939, the total federal income taxes amounted to \$2,178,-420,000, or about 40 per cent of the total federal tax revenues. The total state income-tax revenue for this same year was \$348,751,000, or about 9 per cent of the total state tax revenues. Thirty-six states have some form of income tax. Some states depend upon the income tax as one of the principal sources of state tax revenues, while others receive a very small proportion of their revenues from the income tax. New York and Massachusetts receive more than 25 per cent of their total state tax revenues from their income taxes, while Connecticut receives only about 0.0125 per cent. Wisconsin, Minnesota, Idaho, Oregon, California, North Carolina, Georgia, and Oklahoma each receive more than 10 per cent of their respective total state tax revenues from income taxes.

Table LXIV shows the federal surtax rates on individual net incomes now (January 15, 1942) in force. These should be added to the normal rate of 4 per cent on net income minus exemptions allowed by law. A person whose gross income is \$3000 or less and consists wholly of salary, wages, compensation for personal services, dividends, interest, rent, annuities or royalties, may elect, if he wishes, to pay the tax shown in Table LXV, in lieu of the tax arrived at under the method described above. This optional

method of calculating the tax is intended to simplify the method of computing income taxes for small taxpayers.

Let us suppose a taxpayer is married and has one dependent under eighteen years of age. His gross income all earned is \$2950. He pays \$100 interest on a mortgage on his home, \$100 taxes, and contributes \$50 to welfare work. The tax would be computed as follows under the regular method:

Gross income			\$2950.00
Taxes	\$100		
Interest	100		
Contributions	50		
	<u>\$250</u>		
Net income			\$2700.00
Personal exemption	\$1500		
For one dependent	400	total	1900.00
Surtax net income			\$800.00
Earned income credit			270.00
Subject to normal tax			530.00
Normal tax @ 4 per cent			21.20
Surtax on \$800			<u>48.00</u>
			\$69.20

The tax on \$2950 under the optional method for a married man is \$119. Therefore in this case the tax is \$49.80 less under the regular method. The tax on this same person with no dependent and no taxes, interest, or contributions would be \$133.20 under the regular method of computation or \$14.20 more than under the optional method.

Experts consider the income tax one of the very best taxes when judged by the economic principles set forth earlier. However, a tax problem of great importance today results from the fact that the Federal government, since the adoption of the Sixteenth Amendment, has depended upon the income tax as its principal source of revenue; and more recently the state governments have been making more and more use of this tax as a source of revenue. This produces double taxation, which, however, might be necessary. The difficult problem lies in the selection of the income brackets upon which to levy the income tax. If both the Federal and state governments choose to levy progressive income taxes upon the same brackets of incomes, this might readily result in severely oppressive or even confiscatory taxation on some incomes and little or no

TABLE LXIV¹
SURTAX ON INDIVIDUALS

<i>If the surtax net income is:</i>	<i>The surtax shall be:</i>
Not over \$2,000	6% of the surtax net income.
Over \$2,000 but not over \$4,000	\$120, plus 9% of excess over \$2,000.
Over \$4,000 but not over \$6,000	\$300, plus 13% of excess over \$4,000.
Over \$6,000 but not over \$8,000	\$560, plus 17% of excess over \$6,000.
Over \$8,000 but not over \$10,000	\$900, plus 21% of excess over \$8,000.
Over \$10,000 but not over \$12,000	\$1,320, plus 25% of excess over \$10,000.
Over \$12,000 but not over \$14,000	\$1,820, plus 29% of excess over \$12,000.
Over \$14,000 but not over \$16,000	\$2,400, plus 32% of excess over \$14,000.
Over \$16,000 but not over \$18,000	\$3,040, plus 35% of excess over \$16,000.
Over \$18,000 but not over \$20,000	\$3,740, plus 38% of excess over \$18,000.
Over \$20,000 but not over \$22,000	\$4,500, plus 41% of excess over \$20,000.
Over \$22,000 but not over \$26,000	\$5,320, plus 44% of excess over \$22,000.
Over \$26,000 but not over \$32,000	\$7,080, plus 47% of excess over \$26,000.
Over \$32,000 but not over \$38,000	\$9,900, plus 50% of excess over \$32,000.
Over \$38,000 but not over \$44,000	\$12,900, plus 53% of excess over \$38,000.
Over \$44,000 but not over \$50,000	\$16,080, plus 55% of excess over \$44,000.
Over \$50,000 but not over \$60,000	\$19,380, plus 57% of excess over \$50,000.
Over \$60,000 but not over \$70,000	\$25,080, plus 59% of excess over \$60,000.
Over \$70,000 but not over \$80,000	\$30,980, plus 61% of excess over \$70,000.
Over \$80,000 but not over \$90,000	\$37,080, plus 63% of excess over \$80,000.
Over \$90,000 but not over \$100,000	\$43,380, plus 64% of excess over \$90,000.
Over \$100,000 but not over \$150,000	\$49,780, plus 65% of excess over \$100,000.
Over \$150,000 but not over \$200,000	\$82,280, plus 66% of excess over \$150,000.
Over \$200,000 but not over \$250,000	\$115,280, plus 67% of excess over \$200,000.
Over \$250,000 but not over \$300,000	\$148,780, plus 69% of excess over \$250,000.
Over \$300,000 but not over \$400,000	\$183,280, plus 71% of excess over \$300,000.
Over \$400,000 but not over \$500,000	\$254,280, plus 72% of excess over \$400,000.
Over \$500,000 but not over \$750,000	\$326,280, plus 73% of excess over \$500,000.
Over \$750,000 but not over \$1,000,000	\$508,780, plus 74% of excess over \$750,000.
Over \$1,000,000 but not over \$2,000,000	\$693,780, plus 75% of excess over \$1,000,000.
Over \$2,000,000 but not over \$5,000,000	\$1,443,780, plus 76% of excess over \$2,000,000.
Over \$5,000,000	\$3,723,780, plus 77% of excess over \$5,000,000.

taxation on others. The problem is one of cooperation between the states and Federal governments; this will be considered more fully later.

Inheritance and Gift Taxes. Taken all together, these taxes bring in about 3.6 per cent of all total tax revenues. The Federal government receives 6.6 per cent of its tax revenues from this source, while the states receive only 3.5 per cent. Every state in the Union except Nevada has such a tax, and the percentage of the total tax collections brought in by this tax varies from about 0.25 per cent in South Dakota to a little more than 8 per cent in Florida. Some other states in which the percentages are relatively high are Connecticut, in which 7.25 per cent of the total taxes are inheritance and gift taxes; New York, 6.6 per cent; Pennsylvania, 6.4 per cent; Rhode Island, 6.25 per cent; Massachusetts, 5.25 per cent;

¹ Section 12 (b) of the Internal Revenue Code.

TABLE LXV — OPTIONAL TABLE

1941 SEC. 102. INCOME TAX

<i>If the Gross Income Is Over —</i>	<i>But Not Over —</i>	<i>The Tax Shall Be —</i>		<i>If the Gross Income Is Over —</i>	<i>But Not Over —</i>	<i>The Tax Shall Be —</i>	
		<i>Single Person (Not Head of a Family)</i>	<i>Head of Family or Married Person</i>			<i>Single Person (Not Head of a Family)</i>	<i>Head of Family or Married Person</i>
\$ 1	\$ 750	\$ 0	\$ 0	\$1875	\$1900	\$ 96	\$ 28
750	775	1	0	1900	1925	98	30
775	800	2	0	1925	1950	100	32
800	825	3	0	1950	1975	102	35
825	850	5	0	1975	2000	104	37
850	875	7	0	2000	2025	106	39
875	900	9	0	2025	2050	109	41
900	925	11	0	2050	2075	111	43
925	950	14	0	2075	2100	113	45
950	975	16	0	2100	2125	115	48
975	1000	18	0	2125	2150	117	50
1000	1025	20	0	2150	2175	119	52
1025	1050	22	0	2175	2200	122	54
1050	1075	24	0	2200	2225	124	56
1075	1100	26	0	2225	2250	126	58
1100	1125	29	0	2250	2275	128	60
1125	1150	31	0	2275	2300	130	63
1150	1175	33	0	2300	2325	132	65
1175	1200	35	0	2325	2350	134	67
1200	1225	37	0	2350	2375	137	69
1225	1250	39	0	2375	2400	139	71
1250	1275	42	0	2400	2425	141	73
1275	1300	44	0	2425	2450	143	76
1300	1325	46	0	2450	2475	145	78
1325	1350	48	0	2475	2500	147	80
1350	1375	50	0	2500	2525	150	82
1375	1400	52	0	2525	2550	152	84
1400	1425	55	0	2550	2575	154	86
1425	1450	57	0	2575	2600	156	89
1450	1475	59	0	2600	2625	158	91
1475	1500	61	0	2625	2650	160	93
1500	1525	63	1	2650	2675	163	95
1525	1550	65	2	2675	2700	165	97
1550	1575	68	3	2700	2725	167	99
1575	1600	70	5	2725	2750	169	102
1600	1625	72	6	2750	2775	172	104
1625	1650	74	7	2775	2800	174	106
1650	1675	76	9	2800	2825	177	108
1675	1700	78	11	2825	2850	180	110
1700	1725	80	13	2850	2875	183	112
1725	1750	83	15	2875	2900	186	114
1750	1775	85	17	2900	2925	189	117
1775	1800	87	19	2925	2950	191	119
1800	1825	89	22	2950	2975	194	121
1825	1850	91	24	2975	3000	197	123
1850	1875	93	26				

New Hampshire, 5 per cent; Maryland, 4.5 per cent; and New Jersey, 4.3 per cent. The rates vary in different states and are graduated according to the amount inherited. The federal estate tax varies from 2 per cent on estates not over \$10,000 to 70 per cent on net estates over \$50,000,000. The gift tax ranges from 1.5 per cent to a maximum of 52 per cent.

The Federal government encourages the states to levy such taxes by allowing a person to deduct from the federal tax a certain percentage of the amount of the state tax in the states in which the person lives. The state taxes are being improved; rates are being progressively increased; there is a tendency to apply the tax equally to real estate and personal property; and the administrative machinery is being improved. These taxes are among the most desirable in many respects. They meet fairly well all the standards of a good tax.

Customs. In 1912, before the adoption of the Sixteenth Amendment, about 45 per cent of the federal revenues came from customs, or tariffs on imports, while today (the fiscal year 1938-1939) only 5.8 per cent come from this source. This means that customs have ceased to be a significant item in the federal tax system. Since the Civil War tariffs have been used increasingly — at least most of the time — as a means of preventing foreign competition with our own domestic economic enterprise, and as such they have not been very reliable as sources of revenue. Elsewhere in this volume tariffs are considered in relation to world trade. We need merely to emphasize here that they are becoming less important as sources of federal revenue and to suggest that this is a very desirable development, since tariffs usually have been levied on the necessities of life and are, as a rule, ultimately shifted to the consumers.

Payroll Taxes. Payroll taxes in 1938 constituted 13.5 per cent of the federal revenues, 20.7 per cent of the state revenues, and 0.2 per cent of the local revenues, or about 11.2 per cent of the total governmental revenues, federal, state, and local. These taxes are collected for the support of social security and have only recently been introduced into the United States. The Social Security Act imposes three so-called taxes. Two of these are designed to finance a contributory old-age insurance system, and the third serves to encourage the states to inaugurate and maintain systems of unemployment insurance. There is first a tax on wage earners, deducted

from their wages beginning with 1 per cent for the years 1937 through 1942; 2 per cent for 1943 through 1945; 2.5 per cent for 1946 through 1948; and 3 per cent for 1949 and thereafter. A second tax is equal to the one just mentioned but is levied on the employer and is not deductible from the wages of his employees. Besides these two taxes for old-age insurance there is a third tax, levied on the employer and not deductible from the wages of his workers. This tax, which goes for unemployment insurance, amounted to 1 per cent of pay rolls in 1936, 2 per cent in 1937, and 3 per cent in 1938 and after. This tax covers only the first \$3000 of annual wages of workers and does not apply to employees over sixty-five years of age, agricultural workers, domestic servants, public employees, and certain other classes. The employer may deduct up to 90 per cent of this federal tax for the payment of a state unemployment insurance tax. At present changes in the taxing features of the Social Security Act are seriously under consideration.

To the extent that these levies are deducted from the wages of employees and credited for old-age benefits, they are deferred pay and are levied roughly in accordance with the benefit principle. The justification for placing upon the employers some of the burden of social security is found in the assumption that it is a legitimate cost of carrying on business to require business to support workers throughout their whole lifetime rather than only while they are working.

Effects of Taxes. *On the Consumer.* Taxes may be so levied as to discourage the consumption of some goods and encourage the consumption of others. The Revenue Act of 1941 is intended to discourage the civilian use of certain durable goods, such as automobiles, the manufacture of which the government wishes to discourage because the plant, materials, and labor are needed for defense. Protective tariffs aim to encourage the consumption of domestic goods. A tax on installment buying is intended to limit such buying and may thereby check inflation. Taxes on narcotics and liquors do not always reduce their consumption, but no doubt one of the intended purposes of such taxes is restriction or prevention of consumption. A general sales tax falls more heavily upon the poor than upon the rich, and it tends to lower the standards of living of the poor consumers who have no surplus above the bare necessities.

Heavy taxes on idle land may increase the supply of land for housing or business purposes, since speculators in idle land would be encouraged to sell or construct buildings on the land to meet the heavy taxes. This would increase the supply of houses and tend to lower rents to the consumers. Heavy taxation may check rising prices and prevent inflation by transferring purchasing power from consumers to the government. This is one of the purposes of the Revenue Act of 1941.

These illustrations indicate some of the more important effects of taxes on consumers. It is impossible, however, for anyone, even tax experts, to know all the direct and indirect effects of a tax system upon consumers.

On Business. Taxes are ordinarily levied to raise money for the government, but they may also be used to regulate or even prevent certain types of business activity. A serious problem was created in the period before the Civil War by the circulation of state bank notes of doubtful value. After the establishment of the National Banking System, with provision for the issuance of national bank notes, many people thought that state bank notes should be withdrawn from circulation entirely. But there was some doubt as to whether Congress had the constitutional right to forbid their issue, and so it was decided to seek the desired result by using the tax power. In 1865 an act was passed taxing state bank notes 10 per cent a year. Since the state banks could not afford to pay such a tax, the act had the intended effect of causing the complete disappearance of the notes.

Although the tax power is seldom used intentionally to destroy a business activity, it is rather frequently employed as a means of restriction. We are familiar, for example, with the fact that taxes on saloons and alcoholic drinks have as often been intended to discourage the liquor business as to raise revenue. Similarly, the principal purpose of a protective tariff duty on an imported commodity is not so much to bring in money as it is to keep out the foreign product for the benefit of domestic producers.

Ordinarily, when a tax is levied, the thing least desired is to interfere with business. Although any new tax has the immediate effect of reducing the wealth or income of some individuals and corporations, this reduction in private purchasing power is offset by the increase in the purchasing power of the government. The

net result may be a stimulus to business, because the government may spend money that would have been hoarded by its private owners. Nevertheless, taxes often injure business even though that effect is not intended. For instance, any tax which increases the cost of producing an important service or commodity is likely to have very undesirable effects. If producers raise the price of the product to meet the increase in cost, then sales, production, and employment are likely to fall. On the other hand, if they are not in a position to raise the price, they will suffer losses, and some of them may be forced out of business.

This naturally raises the question, What sort of taxes will not have adverse effects on business? Probably any tax will hurt certain lines of business. Some taxes, however, will be much less harmful than others, and some will offset injury in one direction with benefits in another. Taxes that fall on finished products are often better than taxes that fall on raw materials, because their effect is more readily calculated. And last, taxes that fall on net profits or income actually received are better than taxes that fall on machinery, materials, finished goods, or anything else that people use in carrying on business. The former need only be paid if one has income out of which to pay them; the latter must be paid whether or not, and may therefore kill the goose that lays the golden egg by forcing the abandonment or curtailment of many legitimate business activities. This is another argument in favor of raising a larger portion of our public revenues by direct income taxes.

A special problem of some interest is the effect on business of the federal surtax on undistributed corporate profits. All corporations, of course, are subject to a federal income tax on their net profits. But the Revenue Act of 1936 contained a provision levying an additional tax on profits turned back into surplus instead of being paid out to stockholders as dividends. This provision became the subject of heated controversy. The advocates of the surtax argued that it was desirable to induce corporations to pay out profits, because then the stockholders could spend the money and thus aid business. But the opponents pointed out that it is a misconception to suppose that the surplus of a corporation is idle cash. On the contrary, the surplus account usually represents investment in the business, for profits are often turned back into surplus because

they are needed for improvements and extensions. Such use of profits may stimulate business and increase employment even more than paying them out to stockholders. It was also pointed out that a corporation that did not build up an adequate surplus would be very likely to fail in a period of depression; that the tax made it more difficult for a new and growing business to accumulate capital for expansion; and that, by disturbing their confidence in the future of business, it made investors less willing to furnish funds for new undertakings which would give the people employment and income. The opponents of this surtax did not succeed in getting it abolished, but they were able to induce Congress to reduce it.

Problems of Taxation. The revenue system of the United States has evolved under political pressure and compromise and without the application of consistent guiding principles. Such a system would necessarily be defective in many respects. It is not closely articulated with our national economy and therefore does not contribute its full share toward the development of that economy. It did not, for instance, contribute adequately toward speedy national recovery from the depression. The different taxes — federal, state, and local — have not as a rule been levied in accordance with sound scientific principles nor with a view to the building of a well-integrated system of taxation.

Inequality of the Tax Burden. A tax is considered *progressive* if it takes higher percentages from higher incomes; it is *regressive* if it takes higher percentages from lower incomes. In 1938 only 26.4 per cent of the total taxes were progressive; the other 73.6 per cent were regressive, or levied with little or no consideration of the ability to pay.¹ The federal taxes as a whole are more progressive than the state and local. In 1938, 54.6 per cent of the federal revenues were progressive and only 28.8 per cent consisted of regressive consumption taxes.² However, since 1930 regressive federal taxes have increased much more rapidly than progressive taxes.

The state taxes are much less progressive than are the federal. In 1938 only 18 per cent of the state revenues came from inheritance and income taxes while more than 80 per cent came from property, sales, and excise taxes. This means that the burden imposed upon

¹ D. Anderson, *Taxation, Recovery, and Defense*, Monograph No. 20, Temporary National Economic Committee, Washington, D. C., 1940, p. 80.

² *Ibid.*, p. 83.

the consumers generally by the state taxes is proportionally much greater than that imposed by the federal taxes. Since 92 per cent of local taxes are on property they are even less progressive than the state taxes.¹

Table LXVI shows the relation between savings and all taxes as a percentage of the consumer income. We note from this table that the total federal taxes are slightly regressive on incomes below \$1000 or on those groups that have no savings. After \$3000

TABLE LXVI²

SAVINGS AND ALL TAXES* AS A PERCENTAGE OF CONSUMER INCOME, 1938-1939

Income Classes	Total Consumer Income (in Millions of Dollars)	Taxes as Percentage of Income			Savings as Percentage of Income
		Federal	State and Local	Total	
I. Under \$500	\$ 2,363	7.9	14.0	21.9	- 24.3
II. \$500 to \$1000	10,038	6.6	11.4	18.0	- 2.0
III. \$1000 to \$1500	12,280	6.4	10.9	17.3	5.2
IV. \$1500 to \$2000	10,210	6.6	11.2	17.8	5.8
V. \$2000 to \$3000	12,194	6.4	11.1	17.5	9.6
VI. \$3000 to \$5000	7,743	7.0	10.6	17.6	16.8
VII. \$5000 to \$10,000	4,861	8.4	9.5	17.9	28.4
VIII. \$10,000 to \$15,000	2,238	14.9	10.6	25.5	32.3
IX. \$15,000 to \$20,000	1,601	19.8	11.9	31.7	32.3
X. \$20,000 and over	6,333	27.2	10.6	37.8	38.3
Total	69,861	9.2	11.0	20.2	11.4

* Business taxes were assumed to be shifted to consumer income.

they become increasingly progressive. The people earning less than \$1000 a year pay a higher percentage of their income for state and local taxes than those receiving higher incomes. This is largely due to the fact that sales taxes take a disproportionately larger amount from those who have to spend every cent they earn for consumers' goods. Those in the \$5000 to \$10,000 group seem to be especially favored by state and local governments.

Another and more effective way to get an adequate understanding of the inequities of our tax system is to ascertain the average

¹ D. Anderson, *Taxation, Recovery, and Defense*, Monograph No. 20, Temporary National Economic Committee, Washington, D. C., 1940, p. 83.

² Source: Gerhard Colm, *Who Pays the Taxes?* Monograph No. 3, Temporary National Economic Committee, Washington, D. C., 1941.

amount paid in taxes by each consumer unit ¹ in this country. Table LXVII indicates the income per consumer unit and the percentage and amount of that income which goes for taxes.

TABLE LXVII ²

EFFECT OF THE AMERICAN TAX SYSTEM ON THE VARIOUS INCOME CLASSES, 1939

<i>Income Classes Range</i>	<i>Mean Income</i>	<i>Percentage of All Income Units</i>	<i>Percentage of Income Paid Out in Taxes Total</i>	<i>Average Amount per Income Unit</i>
I. Under \$500	\$346	17.0	21.9	\$75.77
II. \$500 to \$1000	847	29.5	18.0	152.46
III. \$1000 to \$1500	1,381	22.1	17.3	239.91
IV. \$1500 to \$2000	1,929	13.1	17.8	343.36
V. \$2000 to \$3000	2,689	11.3	17.5	470.58
VI. \$3000 to \$5000	4,121	4.6	17.6	725.30
VII. \$5000 to \$10,000	7,741	1.5	17.9	1,385.64
VIII. \$10,000 to \$15,000	12,872	.4	25.5	3,282.36
IX. \$15,000 to \$20,000	19,477	.2	31.7	6,184.21
X. \$20,000 and over	47,600	.3	37.8	17,992.80
Total	1,693	100.0	20.2	

Duplications and Conflicts in Taxation. The composition of our federal system presents a revenue problem of increasing importance. The difficulty lies in the fact that all units of government need revenues and yet more revenues. It is a question of which governmental units shall receive a larger or a smaller share of the tax dollar. In 1912 the Federal government collected 28 per cent of the tax dollar; the states, 14 per cent; and the local units of government, 58 per cent. By 1939, if pay-roll taxes be not included, the Federal government collected about 39 per cent of the tax dollar; the states, about 25 per cent; and the local units of government, about 36 per cent (cities of 300,000 and over about 12 per cent and other local units about 24 per cent). In this period of approximately a quarter of a century the Federal government and the states have each gained about 11 per cent of the tax dollar, and the local units have lost about 22 per cent.

¹ Married or single.

² Source: D. Anderson, *Taxation, Recovery, and Defense*, Monograph No. 20, Temporary National Economic Committee, Washington, D. C., 1940.

This does not mean, however, that the Federal government and the state governments spend all they collect, for the Federal government returns to the states and local units of government, in the form of grants-in-aid and otherwise, considerable revenues, probably one-eighth of the total collections. Some states return revenues to the local units. In fact, several states return a third or more of their total collections to the local units. Colorado returns approximately one-half. On the other hand some states, such as Delaware, Minnesota, Oregon, Texas, and West Virginia, do not return any of their collections to the local units; at least they have not done so for some years.

Approximately 35 per cent of the American tax dollar is now the Federal government's share or the portion of the tax dollar expended for federal functions: 21 per cent the share for state functions; and 44 per cent the share for local governmental functions. These percentages, however, vary from year to year, and it is impossible to predict with any degree of accuracy or certainty the revenues that may be expected, especially because of the allocation and sharing of revenues by the different units of government.

There is much overlapping and duplication of taxation by the different units of government. To be sure, the Federal government does not levy a property tax and it is the only unit which levies a customs tax. Nor do the local units levy an income, or an inheritance, or a pay-roll tax. But with these and a few other possible exceptions of minor importance, it may be said that all units of government make use of the same sources of revenue. This means duplicate and in many cases triplicate administration, with added costs and conflicting jurisdiction; and sometimes the states and other units of government compete with one another for tax revenues. It often means annoyance and loss of time for those who have to meet the requirements of many tax laws. It might, in fact it sometimes does, mean robbing one unit of government to pay another. Confiscation of property and income is sometimes at stake. Recent developments indicate the dangers to interstate trade through the use of taxation to discriminate against the products of other states in favor of local and state products.

Several plans have been advanced for the improvement of the administration of the tax system and to eliminate duplication. One is the centralization of the whole tax system in the Federal govern-

ment. It cannot be denied that most taxes could be more efficiently and economically administered through centralization. That is true of income and inheritance taxes as well as of excise taxes. Uniformity could be attained only through a nation-wide single levy. Those who oppose such a plan fear the dangers of too much centralization of power, or the discouragement by centralization of experimentation and adaptation through local participation in tax matters.

Another plan for the improvement of our tax system is to have the Federal government collect the taxes but to return to the states and local units of government a portion of the money. This would make possible uniform rates but it would result in too much revenue in the wealthier sections of the country and not enough in the poorer sections if the Federal government served only as a collecting agency without the right to apportion on the basis of need. It might, also, encourage extravagant spending by local units since the spending agencies would have no responsibility for making the levy or the collection. Grants-in-aid are part of a plan for overcoming local inequalities in tax resources. It is to be hoped that in the near future the whole tax problem may be reexamined with the thought in mind of arriving at some equitable division of tax sources and of a simpler and less expensive and annoying administration of the whole tax system, federal, state, and local.

THE FUTURE OF PUBLIC REVENUES AND TAXATION

With new problems facing the country because of the war the future developments in taxation are uncertain. It is certain, however, that ever increasing amounts of revenues will be needed to meet the growing costs of the war.

Taxes and Total Defense. By passing two new revenue measures in 1940, Congress recognized the necessity of increasing taxes because of the program of total defense. The first of these, passed in June, 1940, increased personal and corporation income taxes and excise taxes, and was expected to increase the federal revenues one billion dollars per year for the next five years. It lowered exemptions to \$800 for single persons and to \$2000 for married persons without dependents, increased the surtaxes on income between \$6000 and \$100,000, and added 10 per cent to all income taxes. Excise rates on gasoline, tobacco, and other commodities

have been increased. The second act levied an excess profits tax which (allowing numerous exceptions for small companies) varies from 25 per cent on the first \$20,000 to 50 per cent on all profits above \$500,000. It allowed corporations 8 per cent on invested capital, or the average earnings for the period from 1936 through 1939 as the normal earnings. A general exemption of \$5000 is allowed in either case before excess profits are assumed to begin for the purposes of the tax. These two revenue measures were clearly only a beginning in meeting the tremendous increases in appropriations necessary for preparation for total defense.

The Revenue Act of 1941, approved September 20, 1941, imposes the highest taxes in our history. Its purpose is to provide for the expense of national defense by raising revenue the total amount of which is estimated to exceed the amount previously raised by some \$3,500,000,000 annually. The Act increases individual and corporation income taxes. It retains the normal tax of 4 per cent but imposes in addition a progressive surtax on all net incomes of individuals, lowers exemptions from \$800 to \$750 for single persons and from \$2000 to \$1500 for married persons, and allows the same exemption credits for the normal tax as before.

The Act also increases the excess profits taxes, the capital stock tax, and the estate and gift taxes. It raises the existing excise tax rates and adds many new excise taxes.

These new taxes will not only bring in enormously increased revenues, but will also serve to check inflation by discouraging installment buying and by reducing the portion of the national income available for consumers' goods; moreover, they will aid defense by increasing the tax on — and therefore the price of — some goods, such as automobiles, refrigerators, and radios, the manufacture of which requires materials and labor needed in defense. Possibly these fiscal controls of inflation and consumption will have some bearing on the prospective need to resort to such administrative controls as price and wage fixing.

Government Borrowing. Ordinarily it is easier for a government to meet a great increase in expenditures by selling bonds than by levying additional taxes. That, as everyone knows, is what the United States has been doing for the last ten years; and, with the broad war program upon us, no end is in sight. In the long run, of course, paying the costs of government by borrowing brings

penalties. To begin with, when a government sells bonds it must pay interest; and this interest ultimately becomes a heavy charge against taxes. Second, the banks themselves often buy the greater part of the government bonds; and this tends to inflate bank deposits and raise prices, just as would be the case if the banks made large loans to businessmen or speculators. If, however, the government borrows idle capital and spends it for social purposes, such as aid to the unemployed, the government has not hindered business activity because the capital used was idle, but has, however, increased the demand for consumption goods and thereby stimulated production, which, in turn, has put men back to work, stimulated business activity, increased the national income, and aided in the restoration of prosperity. If government bonds are sold to consumers the immediate effect might be to reduce or prevent the rise of prices of consumers' goods by transferring purchasing power from the consumer to the government. This purchasing power could be used for defense purposes.

But even though continued government borrowing is undesirable, we must not accept too readily the notion that spending borrowed funds is spending the income of future generations. In the first place, the funds which the government borrows are not future funds, but funds in existence *now*; and they can be spent only for goods and services in existence *now*. Of course, if they are borrowed abroad, the income of future generations will be reduced, because some day money or goods will have to be sent out of the country to pay principal and interest. But if they are borrowed at home, this will not happen, and repayment will reduce neither the purchasing power nor the real wealth of the country as a whole. The only thing that will happen is that one group of people, the taxpayers, will give up money which the government will pay out to another group, the bondholders. Actually there will not even be two separate groups. The bondholders will all be taxpayers (whether they know it or not) and will furnish in taxes some of the very money that they will receive as interest or principal on their bonds. It is even possible that the bondholders will have paid in taxes the interest and principal of the bonds when due. This depends upon the nature of the tax structure.

Of course, the fact that repaying the bonds will not impoverish the country does not mean that it may not impoverish some tax-

payers who are not bondholders. Incurring a large government debt may change the distribution of wealth and income among the people in the future. Moreover, a change in distribution may also have some effect on the total production or real income in the form of goods and services. About that our knowledge is not as adequate as we might wish. We do know, however, that the total real income of the nation in each generation produces goods and services.

Because government borrowing and spending is a subject of much controversy, it is interesting to note that the ratio of interest charges on the total debt to the national income in 1939 was approximately

TABLE LXVIII¹

INTEREST ON DEBT RELATED TO NATIONAL INCOME PAID OUT, 1921-1939
(Dollar Figures in Millions)

<i>Year</i>	<i>Interest Charges on Private Long- term and Gov- ernment Debts</i>	<i>National Income Paid Out</i>	<i>Interest Charges as Percentage of National Income</i>
1921	\$4180	\$53,644	7.79
1923	4598	64,501	7.13
1925	5140	72,580	7.08
1927	5724	75,685	7.56
1929	6222	79,704	7.81
1931	6257	61,609	10.16
1933	5944	46,089	12.90
1935	5571	57,564	9.68
1937	5434	71,013	7.65
1939 (estimated)	5450	68,000	8.01

what it was in 1929. (See Table LXVIII.) This is not an argument for continued increase of government borrowing, but it does indicate that the burden of debt is little or no greater today than it was in the prosperous 'twenties, due in large measure to the fact that the government is able to borrow money at lower rates of interest than before.

Planning. In recent years it has come to be quite widely accepted that taxation, borrowing, spending, and general fiscal policy may be effectively employed as means of social control, as methods of remedying undesirable economic conditions, and as

¹ Source: D. Anderson, *Taxation, Recovery, and Defense*, Monograph No. 20, Temporary National Economic Committee, Washington, D. C., 1940, p. 216.

instruments for stabilizing our national economy. There have been many suggestions for making fiscal policy more effective in these respects during the present emergency and following the cessation of the present war.

J. M. Keynes would have a democracy finance a war by forced loans to be repaid by a capital levy at the close of the war when the production of consumers goods needs to be stimulated. His plan provides for an exemption minimum with a sharply progressive scale above this minimum, and a system of family allowances for those with the barest necessities only. The plan calls for the prevention, through government action, of the variation in price or consumption of absolute necessities. The Keynes plan is probably too radical to be given serious consideration in the United States. Its complexities and its proposal to confiscate large amounts of wealth at the close of the war to repay forced loans are sufficient to prevent advocacy of it here by economists or government officials.

John T. Flynn of New York proposes to pay all the costs of the war with current taxes. Briefly his plan proposes a 50 per cent tax on corporation profits up to 6 per cent of the capital value and a 100 per cent tax on all profits above 6 per cent. It proposes the simplification of the personal income-tax structure and the imposition of rates that prevent any individual from making more than \$10,000 in any one year. Its fundamental purpose is to pay for defense and war costs out of current taxes. Borrowing, Flynn claims, produces inflation out of which grow swollen war profits, economic dislocation during the war, and deflation with all its evil consequences after the war. All these would be avoided, he claims, by the pay-as-you-go policy.

The Flynn plan has much in its favor but there are certain vital objections to it. The most important objection is that war emergencies develop rapidly and enormous sums of money are needed quickly. Sometimes the national income would not be adequate to meet the defense needs and the civilian needs at the same time. When the economy reaches a full defense basis and there is full-time employment for all workers then the national income if properly distributed would probably be adequate to meet all costs and the defense costs could be paid from current taxes. Until such a time is reached, borrowing or printing paper money seems neces-

sary. Another objection to the Flynn plan is that too heavy taxes might discourage the production of defense materials.

The Flexible Finance Plan was proposed by a number of experts, among whom are Gerhard Colm, Alvin Hansen, and others. This plan recognizes three stages in the preparedness program and provides a fiscal policy for each stage as follows:

1. The beginning period. — This is characterized by the present economic conditions of widespread unemployment, large unused resources of material, plant, and equipment. In this period, while the entire economy is still operating on a peacetime basis and with its attention focused on peacetime needs, the center of attention is shifted to military preparedness, and the demands of the peacetime civil sector of the society become secondary.

This initial period necessitates making great sums of money immediately available for plant expansion, part payment of industrial orders, reorganization of the military services, continuation and expansion of public works vital to preparedness and for which, later on, no surplus man-power will be available, large-scale projects for training skilled workers, and adjustments between the preparedness program and the requirements of the civil sector of the economy.

Neither the present tax system nor any proposed revisions which could be made immediately effective would bring in sufficient current revenue to meet the cost of initial expenditures for the preparedness program. On the present annual basis of returns, income-tax receipts would not be available until 1941, almost a year after the preparedness program has been started. Revenues from the excise features of the revenue act are too small to defray preparedness costs.

Borrowing becomes essential to meet the immediate needs of the preparedness program. In the present capital market such borrowings can be made on most favorable terms. The debt limit must be raised substantially to make this possible.

During this period of change-over to a preparedness economy, when full employment has not yet been attained, an increased excise-tax program adversely affects the buying power of the people, and it would be advisable to defer the collection of such excises until sometime in 1941, when the preparedness expenditures have raised the level of mass purchasing power.

2. The second period. — This second period, dependent upon several incalculable factors, is characterized by a very substantial measure of employment and use of our resources, principally for preparedness purposes. This period will probably be reached during 1941.

In this stage of developing the preparedness economy a large proportion of its costs should be paid for out of taxes on income and wealth. Care should be taken to avoid undesirable social consequences resulting from wartime profiteering and millionaire-making, without setting up any barriers to the attainment of the central purpose of an adequate preparedness program.

Specifically, the rate structure of the personal income tax should be revised, with well-graduated rates, and the loopholes removed. Such loopholes seriously impair the income tax, and particularly in such a time of national emergency cannot be defended.

The deductions permitted in the Federal estates tax should be revised, and specific exemptions lowered. It is suggested that the initial allowance be \$10,000.

A war excess-profits statute is essential. Colm suggests that it follow the provisions of H. R. 7645, Seventy-sixth Congress, where, after establishing a base period net income based upon average annual net income for three of the four years, 1935-38, rates are applied as follows:

<i>Excess of Income over Base Period</i>	<i>Tax Rate, Per Cent</i>
10 per cent or less	10
10 to 25 per cent	25
25 to 50 per cent	50
Over 50 per cent	75

Special amortization features should be provided to cover new investments in industries whose expansion facilitates the preparedness program.

3. The third period. — In this period of the preparedness economy full employment will have been achieved, the preparedness or actual war program will be under way, and the maximum resources of the economy will be in use, and incipient or actual scarcity will be noticeable. In this phase of the economy the pressure for price rises and inflation are to be expected.

Consequently, the fiscal policy and tax program should be made to fit these changed economic conditions as nearly as possible.

The personal income tax should be altered once more, broadening the tax base by lowering exemptions and increasing rates.

Depending on the economic situation at this time, the excess-profits tax should be revised to curtail profits drastically.

A selected list of commodities, including such things as automobiles, radios, gasoline, refrigerators, etc., which can be safely dispensed with, should be subjected to high excise taxes definitely intended to curtail mass luxury consumption, and the limitation of supply would beneficially affect the efforts devoted to the preparedness program.

A general turn-over tax should be enacted, based on the value added by manufacture, with tax credits allowed for federal and state pay-roll taxes in force, and tax exemptions for the necessities of life. The proposed tax rate is 4 per cent to begin with, but if more money is needed to supplement other revenues, then the rate should be advanced to obtain the required sum.

In all three periods it will probably be necessary to borrow, but such borrowings should be made so far as possible from financial institutions, in order to free their capital for social use. Under the incentives and impact of the fiscal and tax programs, the hoardings of individuals will in all likelihood be released in forms other than loans.¹

None of these plans is being followed by the government in every detail. However, the Federal government seems to be following the Flexible Finance plan in some respects. The Revenue Act of

¹ Anderson, *op. cit.*, pp. 247-248.

1941 is probably indicative of the use to be made of the taxing power to control a preparedness or war-time economy. Recently, Secretary of the Treasury Morgenthau recommended an additional \$4,800,000,000 tax to be levied on incomes, payable at the source. President Roosevelt has endorsed this recommendation (November, 1941). This is further evidence that the government in Washington proposes not only to raise gigantic sums in taxation but to use the taxing power for other purposes as well.

Constitutional Limitations on the Taxing Power of Congress.

It should be pointed out that our federal Constitution places definite limitations on the taxing power of Congress. Congress may tax "to pay the debts and provide for the common defense and general welfare of the United States." All direct taxes except income taxes shall be apportioned among the states according to population, and all indirect taxes shall be uniform. Congress may not tax exports; and courts have held that Congress may not use the taxing power to regulate something which under the Constitution Congress may not otherwise regulate. The Supreme Court recently held that it is permissible for Congress to tax the salaries of state officials and the salaries of federal judges as long as the tax is not discriminatory. Likewise, states may now tax the salaries of federal officials. This decision reversed the former position of the Court on this subject, namely, that the essential instrumentalities or agencies of the Federal government could not be taxed by the states and that such agencies of the states could not be taxed by the Federal government.

This decision may have important consequences in the future with reference to tax-exempt securities. Recently (December, 1940), under authorization by Congress, the Secretary of the Treasury has offered for sale for the first time in our history federal bonds, the income from which is not exempt from taxation. This issue, by the way, was oversubscribed more than eight times. Possibly we are approaching the time when the serious problem of capital-seeking tax-exempt investments will disappear.

TERMS TO BE UNDERSTOOD

canons of taxation	real estate
incidence of taxes	intangibles
real income	surtax

nontax revenues	customs
tax	pay-roll taxes
sales tax	regressive tax
excise tax	progressive tax

QUESTIONS FOR DISCUSSION

1. Name several taxes which seriously violate one or more of Adam Smith's canons of taxation. Defend your choice.
2. Can an individual shift his income tax to someone else? Why or why not?
3. Should stocks and bonds be taxed?
4. When the government spends borrowed money, does this reduce the future wealth and income of the country?
5. When are taxes too high?
6. What justification can you suggest for nontax revenues?
7. What are the advantages and disadvantages of the general property tax?
8. Justify a general sales tax if you favor one.
9. What has the income tax in its favor?
10. Would you favor higher inheritance and gift taxes? Why or why not?
11. What can you say for a tariff?
12. What are some major problems of tax administration?
13. Suggest a good tax system, and indicate the sources for the local governments, for the states, and for the Federal government. Also, suggest what you think should be done as to sharing sources.

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PUBLIC EXPENDITURES

PUBLIC SERVICES AND PUBLIC EXPENDITURES

Increased Functions of Government. The public services have greatly increased since the beginning of our federal system and still continue to increase. The number of distinct functions of the city of Detroit, for instance, increased from 23 in 1824 to 46 in 1860, to 132 in 1900, and 306 in 1930.¹ In Cincinnati the number of municipal functions increased from 21 in 1802 to 67 in 1820, to 138 in 1860, to 215 in 1900, to 331 in 1930, and to 358 in 1936.²

The states have likewise added greatly to their functions through the years. Table LXIX gives the types of services provided by

TABLE LXIX³

FUNCTIONS CREATED BY STATE LAWS IN CALIFORNIA

<i>Type of Service</i>	<i>Number of Services</i>	<i>Percentage of Total Number</i>	<i>Type of Service</i>	<i>Number of Services</i>	<i>Percentage of Total Number</i>
General government	38	10.4	Prisons and reformatories	10	2.7
Agriculture	66	18.0	Public protection . .	7	1.9
Public health and safety	67	18.3	Parks, museums, monuments, recreation	20	5.4
Business regulation and taxation . .	48	13.1	Highways, waterways, irrigation .	8	2.2
Education	51	13.9	Total	367	100.0
Social welfare . . .	35	9.5			
Professional standards	17	4.6			

¹ Lent D. Upson, *The Growth of City Government*, Detroit Bureau of Governmental Research, 1931.

² *The March of City Government*, Municipal Reference Bureau, Cincinnati, 1937.

³ D. Anderson, *Taxation, Recovery, and Defense*, Monograph No. 20, Temporary National Economic Committee, Washington, D. C., 1940, p. 80.

California in 1937. Between 1850 and 1937, 452 different services were created by law in California, 367 of which were still provided in 1937. While no comparable detailed study has been made of the increase of state and federal functions such as those that have been made of municipal functions, new functions taken on by the states and by the Federal government come readily to mind. Both the states and the Federal government have in recent years increased their activities in the conservation of natural resources. in road building, health, recreation, education, social security, regulation of business, aid to farmers, labor legislation, unemployment relief, scientific research, planning, and in many other fields. Such additional services obviously cannot be performed without the expenditure of additional sums of money.

Planning Public Expenditures. Since the different units of our government have all been increasing their functions and hence their expenditures, it becomes increasingly important that effective controls be exercised over governmental finances. It is necessary that expenditures be carefully planned over a sufficient period of time so that foreseeable difficulties can be avoided. One-year budgets are better than no budgets at all, but if possible, a longer view of public finance seems desirable.

It would seem desirable, for instance, to increase or decrease public expenditures with the fluctuations of the business cycle. Relief and welfare expenditures are necessarily increased in times of depression. If the permanent governmental investments and improvements, such as long-time loans to welfare and other agencies, and the construction of public roads, buildings, and harbor facilities, and the planting of forests and similar desirable undertakings, could be planned in large part in times of depression, the costs would be less and the economic structure would be benefited most. At any rate, intelligent and careful planning, whether it be for a short or long period, is the first step in getting the greatest possible benefit from our enormous public expenditures.

The Budget. A budget is more than a mere statement of the revenues, expenditures, and public debts over a period of time. It is such a statement, but it is also a plan of fiscal policy and a means of control of general governmental policy for the period covered. Budget making is a recent development in the United States. In the early days of our history, resources were abundant

and were prodigally used. The public functions and therefore the public expenditures were few, and the problem of public finance scarcely presented itself. Today the public budget is one of the foremost issues. The pros and cons of balancing public budgets, local, state, and federal, are now argued by newspapers, legislators, administrative officials, and citizens.

Types of Budgets. There are three main types of budgets, although, of course, no two budget plans are exactly alike in every detail. The first of these three is the *legislative budget*. In such a plan estimates for the budget period are drawn up separately by the various departments and other spending agencies and are then sent directly to the legislature where they are referred to the appropriate committee, usually to the appropriation committee or the ways and means committee of the lower branch of the legislative body where there is a bicameral legislature. The committee receiving these estimates makes a thorough study of them, considering them in the light of anticipated services and revenues. It attempts to bring these estimates into a unified and systematized whole and reports them, after hearings are held and necessary changes made, to the legislative body for action. Similar committee action is taken in the upper house. In this type of budget the responsibility for a budget plan rests on the legislative committee to which the estimates are referred.

The second type of budget used in several states and in some cities is known as the *commission* type. In such a budget plan those responsible for drafting the budget are a number of executive officers, usually serving *ex-officio*, or a combination of executive and legislative officials. The state executive officers who often serve on such commissions are the governor, the treasurer, and the auditor.

The *executive* budget, used by the Federal government, by some thirty states, and by many cities, is by far the most popular type of budget today. Under this plan the chief executive officer, the President, the governor, the mayor, or in the city-manager cities, the city manager, receives the estimate from the spending agencies of his government, usually through a budget officer. This officer, the director of the budget, together with a staff of experts appointed on the basis of merit, does the work of receiving the estimates, studying them, consolidating them into a unified whole, balancing the anticipated revenues against the estimated needs of the spending

agencies, suggesting to the spending agencies reductions in their respective estimates, recommending additional sources of revenue if the executive deems new revenues necessary, and finally submitting to the chief executive a budget plan for the ensuing fiscal period.

The Form of a Budget. There is no fixed form for a governmental budget; however, certain general rules concerning its form may be considered fairly well established today. The first part should contain a summary of the expenditures for the last fiscal period as well as the anticipated expenditures for the ensuing period. This enables the legislative body as well as the general public to get an over-all and comparative view.

The second part of a good budget consists of the detailed schedules of the proposed expenditures as well as the actual expenditures of the preceding fiscal period. These statements should be definite and detailed for every item because they provide the legislative body with a guide for drafting the appropriation bill. It is possible for the legislative body to pass intelligently upon an appropriation bill only if the details of proposed expenditures are given fully and exactly.

The third part of the budget should contain a statement of anticipated revenues needed to meet the expenditures. Any suggested change in revenue laws or anticipated increase or decrease in revenues should be given. It seems best for purposes of comparison to place the revenue operations of the preceding fiscal period beside the proposed operations for the ensuing like period.

The Legislative Enactment of the Budget. After the budget has been prepared by the proper executive or other officials, it is then presented to the legislative body for action. The federal Constitution provides that, "No money shall be drawn from the Treasury but in consequences of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time."¹ The only other statement in the federal Constitution dealing with appropriations is in the section dealing with the powers of Congress. Congress is given the power, "To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years."²

¹ Constitution of the United States, Art. I, Sec. 9, Par. 7.

² Constitution of the United States, Art. I, Sec. 8, Par. 12.

The states have provisions in their constitutions similar to the first one quoted above from the federal Constitution. In addition some state constitutions have other important provisions concerning appropriations, such as budget provisions, time limitations on appropriations, provision for executive veto of items in appropriation bills, provision that appropriation bills shall deal with appropriations only, and in a few cases provision that special appropriations outside the budget shall require more than a bare majority vote.

It is, then, the responsibility of the legislative body to determine finally the budget and to pass the appropriation bills necessary for carrying into execution the fiscal plan for the ensuing fiscal period. The legislative committee or committees to which the budget is referred may call administrative officers or hear them upon their own request, may demand accounts, or take any other steps necessary and proper for arriving at a reasonable decision concerning any item in the budget. After the committee or committees concerned have reached decisions on all items it is then necessary to draft and introduce the necessary appropriation bill or bills.

Although it is a legislative function to determine the final form of the budget and to enact appropriation bills, some contend that good financial procedure would limit the legislative function to decreasing or eliminating items and leaving to the executive the right to fix the maximum at least for the executive and administrative agencies of the government. Others oppose this on the ground that it would transfer some legislative power to the executive. While some states and cities have written into their budget laws and constitutions this principle, there seems to be no disposition in the United States generally to deprive the legislative bodies of some of their power. Some restrictions on legislative action, however, seem desirable. In New York,

The Legislature may not alter an appropriation bill submitted by the Governor except to strike out or reduce items therein, but it may add thereto items of appropriation provided that such additions are stated separately and distinctly from the original items of the bill and refer each to a single object or purpose; none of the restrictions of this provision, however, shall apply to appropriations for the Legislature or judiciary. Such a bill when passed by both houses shall be a law immediately without further action by the Governor, except that appropriations for the Legislature and judiciary and separate items added to the Governor's bills by the Legislature shall be subject to his approval. . . .

Neither house shall consider further appropriations until the appropriation bills proposed by the Governor shall have been finally acted on by both houses; nor shall such further appropriations be then made except by separate bills each for a single work or object, which bills shall be subject to the Governor's approval. . . . Nothing therein contained shall be construed to prevent the Governor from recommending that one or more of his proposed bills be passed in advance of the others to supply the immediate needs of government or to meet an emergency.

Maryland has a somewhat similar provision in her constitution, and other progressive states have seen fit to strengthen the executive budget in one way or another.

The Congress of the United States has been unwilling to place any self-denying restriction upon its fiscal power. Until 1921 there was no budget system, and many committees handled appropriation bills. Even since 1921 Congress has exercised its power to authorize special appropriations in excess of those requested by the executive. It cannot be said that the total appropriations made by Congress since the enactment of the Budget Law of 1921 have exceeded those requested by the President. On the contrary, Congress has been inclined to reduce the total appropriations, but to favor "pork-barrel" appropriations that help in the reelection of the members, and to trim the requests for the administrative agencies. Under President Franklin D. Roosevelt the executive has taken the lead in recommending appropriations far in excess of revenues, thus increasing the national debt. This has produced serious disagreements over fiscal matters between the President and many members of Congress. The late Senator Pat Harrison of Mississippi, Chairman of the Finance Committee of the Senate, took the lead in January, 1940, to restore to Congress more control over finances by introducing into the Senate a concurrent resolution providing for the appointment of a joint committee of the House and Senate to balance the budget.

The 1941 defense appropriations were \$6,404,000,000 and the President in his budget message in January, 1941, recommended \$10,811,000,000 for the defense program for the fiscal year 1942, an increase over the 1941 appropriations of 67 per cent. A total expenditure of \$17,585,000,000 is recommended by the President. Anticipated revenues for the 1942 fiscal year are \$9,000,000,000. This leaves an anticipated deficit of \$8,585,000,000, which the President recommends be met in part by increasing taxes on the

principle of ability to pay and so as to prevent abnormal profits from defense activities.

In view of the present world situation it is extremely unlikely that Congress will make any effort to curb or limit the executive in his present fiscal powers, even though the budget will probably be farther out of balance and the national debt greater at the end of the 1942 fiscal year than at any previous point in our history. It should be noted, however, that the Congress is now in no way limited under the constitution or laws as to what it may do with the budget recommendations of the President.

A problem of no mean significance that legislative bodies face when considering appropriation bills is that of determining whether to make appropriations in large lump sums to the several departments and other spending agencies, or to attempt to control the expenditures by making the appropriations detailed, item by item. Lump-sum appropriations permit of a larger discretion in the administration of spending agencies, but unless there is some supervising agency, such as a treasury official, to check and control the spending agencies there is danger of abuse of discretion, especially with reference to the exhaustion of the appropriations before the close of the fiscal period for which the money was appropriated. This encourages waste and the piling up of deficits. In spite of these dangers it seems best to make appropriations in large lump sums and to set up supervising and controlling executive agencies who may be held responsible for the proper and wise expenditure of the appropriations by the several administrative bodies.

Activities of Government outside Budget Control. In all units of government there are some agencies that do not come under the control of the regular budget and that do not depend upon annual or biennial appropriations to continue to function. Many cities own some of their utilities, such as water, light, and transportation. In the states fish and game departments are sometimes dependent upon their own revenues for support. The budget of the Federal government ranks among the first in its comprehensiveness, since there are now only a few minor agencies outside budgetary control. So long as some agencies are allowed to function outside the budget system it is evident, of course, that budgets do not give complete pictures of the fiscal operations of the different units of government.

Executive Supervision of Expenditures. Wise fiscal planning by responsible executive officers, followed by intelligent criticism and possible modifications of executive fiscal plans by informed and capable legislative bodies, are not enough to guarantee sound fiscal practices in government. Appropriations are merely legal authorizations to expend money from a public treasury; in no sense are they orders to spend such money. Administrative officials have sometimes been inclined to consider appropriations as *carte blanche* to spend the full amounts within the period. Because of this tendency, there is an increasing demand for adequate supervision of public expenditures. In fact, most states and some cities have modified to some extent their practices in the direction of increasing the extent of executive supervision over public expenditures. Fiscal supervising agencies have been established in many states and in some cities and, of course, the office of Comptroller General with the General Accounting Office under him has been created by the Federal government.

These agencies usually plan the expenditures for the several spending agencies over the budgetary period in monthly or quarterly amounts. The administrative departments of the Federal government obtain quarterly allotments, but the departments are not really required to keep within these quarterly allocations.

Public Accounting as a Means of Supervision and Control. No proper supervision of expenditures can possibly be exercised unless efficient and adequate accounting methods are installed and followed by all spending bodies. The work of prescribing, installing, and operating an accounting system is generally considered to be an administrative responsibility to be centralized in one office.

The accounting office may make available to the supervising executive valuable information such as: (1) reports necessary for the direction of work and the guidance of future expenditures; (2) records to test the legality and appropriateness of the use of funds; (3) data essential to prevent the incurring of deficits; (4) reports helpful to the executive in formulating policies and programs of action, a very important thing in times when economic and political changes take place rapidly and unexpectedly; and finally, (5) data on unit costs that will be useful in the control of purchases of both materials and services, and in the organization of operating agencies.

The Degree of Executive Supervision Desirable. The act of appropriating money is a legislative act. The degree of supervision or control of public expenditures by the executive is limited by the will of the legislative body insofar as that will has been explicitly expressed and so long, of course, as the legislative body keeps within whatever constitutional limitations may be placed upon it. A problem of government which has provoked much discussion in recent years concerns the whole subject of executive fiscal management. What fiscal controls, if any, should the chief executive and his assistants have over independent boards and commissions? Should boards of education be subjected to fiscal supervision by local executive officers? To what extent should the President control the fiscal policies of such independent boards as the Interstate Commerce Commission, the Federal Trade Commission, the Tennessee Valley Authority, and many others? Would it be interfering too much with the established autonomy of these agencies of government to require central purchasing, salary standardization for personnel, and to control monthly or quarterly allotments of the appropriations to these agencies?

Within the departments directly under executive supervision a problem of importance is the extent to which fiscal control should be centralized in a separate fiscal authority. Sound fiscal management demands that the control of estimates, the supervision of apportionments, the standardization of salaries, and the control of purchasing be centralized. In addition, the fiscal agents might well counsel and advise with the responsible administrative authorities on doubtful expenditures, calling to the attention of the chief executive officer any items of expenditure deemed extravagant or wasteful. It is clearly not the function of the fiscal agents to interfere with the day-by-day decisions of the administrative officers in carrying out the duties of administration.

The Custody and Disbursement of Public Funds. Local and state treasury officials are usually elected by popular vote and may not be removed except by impeachment. It is their function to look out for the safekeeping of the public funds, to invest surplus funds in accordance with the law or under the direction of boards or commissions, and to credit the interest earned to the proper governmental unit or function, to maintain on hand sufficient cash reserves to meet the daily needs, and to disburse the funds.

In the recent past and even at the present time scandals of corruption and mismanagement, embezzlement, outright theft of public moneys, withholding of interest on public deposits, placing deposits in banks and removing them for political reasons even at the risk of losing such funds, using public funds for private profit, and other such peculations have been sufficiently numerous to bring the treasury management of local and state funds into serious question. It would seem necessary, if these evils are to be avoided in the future, that the states and local units of government remove the treasurers and their assistants from politics by providing for their appointment on the basis of merit rather than by electing them on a partisan ticket and appointing their assistants as a reward for party service. Treasury management calls for honesty and integrity in office and knowledge of and competence in bookkeeping and accounting. Men and women with these qualities are more likely to be obtained by executive appointment than by popular election.

Audit. Audit in its historical sense consists of a systematic examination of accounts for the sake of verification of the fiscal facts. In the Federal government and in most states auditing has come to mean more than mere verification of fiscal facts, while in most local units of government the historical or original meaning still obtains. The federal and state audits include not only the ascertainment and verification of fiscal facts but also the determination of the legality and regularity of the fiscal operations of government. The audit is for the purpose of furnishing the proper governmental agency with information necessary for determining whether funds have been spent in accordance with appropriation acts, whether there has been loss of funds through embezzlement or other wrongdoing of officers, and whether the fiscal operations of the government have been inefficient or otherwise unsatisfactory.

The audit is primarily a legislative function, not an executive one. While it might well be continuous rather than at the close of a fiscal year and the information might well be made available to administrative officers in the form of advice or warning, the audit as such is for the purpose of aiding the legislative body in exercising its proper check on the spending agencies of government. This function is clearly different from the function of fiscal administrative agencies whose ultimate objective is to aid the chief executive in

making estimates, recommending appropriations, making monthly or quarterly allotments, avoiding deficits, supervising expending agencies, and carrying out the general fiscal plans and operations of the government. Properly these two sets of functions should be performed by separate and distinct officers — that of auditing by an official responsible to the legislative body, and that of fiscal administrative control by an officer responsible to the chief executive. In fields such as keeping accounts, where there is overlapping, there need be no duplication of effort, since the work done by one set of officials may be made available to the auditor as a servant of the legislative body and also to the comptroller as an executive assistant.

The Comptroller General of the United States. In 1921 Congress established the office of Comptroller General and placed under him the General Accounting Office. Prior to this, auditors in the Department of the Treasury under supervision of the Comptroller of the Treasury had performed the work of auditing the federal expenditures. The act of 1921 separated the office of Comptroller General completely from any executive department by providing for a term of fifteen years and specifying that removal was to be by a joint resolution of Congress after notice and hearing, or by impeachment.

Numerous and important powers were lodged in this office, by specific enumeration as well as by implication. Among the most important were the following: (1) to audit the books and settle claims against or by the government; (2) to prescribe methods of bookkeeping and accounting; (3) to investigate all receipts and disbursements; (4) to pass on the legality of all receipts and expenditures; (5) to approve contracts; (6) to have custody of original documents supporting expenditures; (7) and to report to Congress any violation of law or irregularity in regard to contracts or expenditures.

The first Comptroller General, John R. McCarl, handed down decisions touching upon almost every phase of public administration: expenditures, receipts, purchasing, employment of personnel, wages, salaries, pensions, interpretation of statutes, and many others. He took the position that his office was in no way under any executive or any court except the Supreme Court. He refused to be guided by decisions of inferior courts or opinions of the Attorney General.

Much criticism was directed at him, especially in the early years of the New Deal. It has been said that his decisions often were arbitrary and offensive; that he was a stickler for form rather than substance; that his decisions ran to the technical and meddling sort; that he was a hindrance rather than a help in establishing sound fiscal practices; that he had failed to establish a workable and comprehensive system of central accounting; and finally that he had tried to substitute his policy for the policy of Congress and the President. The increasing number of complaints explain in part the proposals made in 1937 by the President's Committee on Administrative Management for important changes in the powers of the office of Comptroller General.

Recommendations of the President's Committee on Administrative Management. The recommendations of the President's Committee on Administrative Management¹ may best be stated in the words of the Committee:

1. For the purpose of providing the Chief Executive with the essential vehicles for current financial management and administrative control, the authority to prescribe and supervise accounting systems, forms, and procedures in the Federal establishments should be transferred to and vested in the Secretary of the Treasury. . . .

2. For the purpose of fixing responsibility for the fiscal management of the Government establishment on the Chief Executive in conformity with the constitutional principle that the President "shall take Care that the Laws be faithfully executed," claims and demands by the Government of the United States or against it and accounts in which the Government of the United States is concerned, either as debtor or as creditor, should be settled and adjusted in the Treasury Department.

3. To avoid conflict and dispute between the Secretary of the Treasury and the departments as to the jurisdiction of the Secretary to settle public accounts, which conflicts and disputes have so marred the relationship between the Comptroller General and the departments in the past, and to make it impossible for the Secretary of the Treasury to usurp any of the powers vested in the heads of departments by the Congress, the Attorney General should be authorized to render opinions on such questions of jurisdiction (but not on the merits of the case) upon the request of the head of the department or upon the request of the Secretary of the Treasury, and the opinion of the Attorney General on such questions of jurisdiction should be final and binding.

4. In order to conform to the limitations in the functions remaining within the jurisdiction of the Comptroller General, the titles of the Comptroller General and the Assistant Comptroller General should be changed to Auditor General

¹ President's Committee on Administrative Management, pp. 24-25.

and Assistant Auditor General, respectively, and the name of the General Accounting Office should be changed to the General Auditing Office.

5. The Auditor General should be authorized and required to assign representatives of his office to such stations in the District of Columbia and the field as will enable them currently to audit the accounts of the accountable officers, and they should be required to certify forthwith such exceptions as may be taken to the transactions involved (a) to the officer whose account is involved; (b) to the Auditor General; and (c) to the Secretary of the Treasury. . . .

6. In the event of the failure of the Secretary of the Treasury and the Auditor General to reach an agreement with respect to any exception reported by representatives of the Auditor General concerning any expenditure, it should be the duty of the Auditor General to report such exception to the Congress through such committees or joint committees as the Congress may choose to designate.

While Congress did not see fit to accept the proposals of the Committee, it may be suggested in passing that it seems unsound fiscal policy to leave with the Comptroller General, who is in no way responsible to the President, functions of which the chief executive should have control if he is to be an efficient administrator.

The Bureau of the Budget was transferred from the Department of the Treasury to the executive office of the President July 1, 1939, and made the fiscal agent of the President. Its functions, as defined by Executive Order, September 8, 1939, are as follows:

1. To assist the President in the preparation of the Budget and the formulation of the fiscal program of the Government.
2. To supervise and control the administration of the Budget.
3. To conduct research in the development of improved plans of administrative management, and to advise the executive departments and agencies of the Government with respect to improved administrative organization and practice.
4. To aid the President to bring about more efficient and economical conduct of Government service.
5. To assist the President by clearing and coordinating departmental advice on proposed legislation and by making recommendations as to presidential action on legislative enactments, in accordance with past practice.
6. To assist in the consideration and clearance and, where necessary, in the preparation of proposed Executive orders and proclamations.
7. To plan and promote the improvement, development, and coordination of Federal and other statistical services.
8. To keep the President informed of the progress of activities by agencies of the Government with respect to work proposed, work actually initiated, and work completed, together with the relative timing of work between the several agencies of the Government; all to the end that the work programs of the several agencies of the executive branch of the Government may be

coordinated and that the moneys appropriated by the Congress may be expended in the most economical manner possible with the least possible overlapping and duplication of effort.¹

Local Government Finance. With the exception of some of the larger cities and some school districts, the local units of government have inadequate or no budget systems. Neither do they have proper accounting and auditing methods. In fact many local units of government have crude or no fiscal records. The preceding official may have forgotten to turn over his records; he may have lost them; or he may have failed to keep any records at all. Sometimes the difficulties are due to dishonest officials, but more often to lack of trained personnel. In any case conditions are chaotic and conducive to carelessness and even to dishonesty.

In recent years a number of states have attempted to improve conditions by setting up central state offices to supervise local finances: (1) to prescribe uniform methods of accounting; (2) to advise or even control in budget making; (3) to audit the books of local officers; (4) to improve the issuance of bonds; (5) to approve the investment of local funds or in some cases to act as the agent of the state to invest local funds in state bonds or other securities. State agencies prepare budgetary forms for the use of counties and municipalities in twenty-nine states.² Some states have been able to improve greatly the conditions in local communities. Under the New Deal the Federal government has exerted considerable influence upon local governments and even upon the states in getting them to improve their methods of handling finance. It is suggested by some that more pressure may be exerted through federal loans and grants-in-aid to influence the states to establish state agencies to supervise and control the financial operations of the local units of government. There can be no question but that the weakest link in governmental finance is to be found in the local units of government.

Great strides have been made in recent years toward a more intelligent handling of public moneys. Budget making has been taken over in the larger units of government by the executive. Appropriations have been more intelligently made because fewer committees

¹ U. S. Government Manual, Sept., 1941, pp. 59-60.

² Simeon E. Leland, editor, *State-Local Fiscal Relations in Illinois*, University of Chicago Press, Chicago, 1941, pp. 247-250.

have considered them and, what is possibly more important, because the committees have had more accurate and scientific data on which to act. Fiscal management and control have been greatly improved. Treasury management no longer furnishes opportunities for the corrupt and illegal peculations of the past, and auditing has in recent years become more thorough and dependable as an aid in promoting more scientific fiscal policies of government.

TRENDS IN PUBLIC EXPENDITURES

Trends in Total Expenditures. Tables LXX and LXXI show the trends in governmental expenditures from 1923 to 1938, a period of sixteen years. In this period the total expenditures increased 90 per cent or from \$8,850,000,000 to \$16,805,000,000.

TABLE LXX¹

GOVERNMENTAL EXPENDITURES, FEDERAL, STATE, AND LOCAL, 1923-1938
(In Millions)

Year	Total		Federal		State		Local	
	Amount	Per Cent Increase	Amount	Per Cent Increase	Amount	Per Cent Increase	Amount	Per Cent Increase
1923 . . .	\$8,850	—	\$3058	—	\$1208	—	\$4584	—
1924 . . .	9,395	6.2	2812	- 8.7	1402	16.1	5181	13.0
1925 . . .	9,869	5.0	2801	- .4	1493	6.5	5575	7.6
1926 . . .	10,113	2.5	2779	- .8	1499	.4	5835	4.7
1927 . . .	10,453	3.4	2738	- 1.5	1614	7.7	6101	4.6
1928 . . .	10,972	5.0	2798	2.2	1774	9.9	6400	4.9
1929 . . .	11,611	5.8	2957	5.7	1943	9.5	6711	4.9
1930 . . .	11,943	2.9	3152	6.6	2170	11.7	6621	- 1.3
1931 . . .	12,390	3.7	3560	12.9	2298	5.9	6532	- 1.3
1932 . . .	13,129	6.0	4434	24.6	2257	- 1.8	6438	- 1.4
1933 . . .	11,284	- 14.1	3793	- 14.5	2067	- 8.4	5424	- 15.8
1934 . . .	13,604	20.6	5947	56.8	2044	- 1.1	5613	3.5
1935 . . .	15,011	10.3	6933	16.6	2230	9.1	5848	4.2
1936 . . .	17,009	13.3	8611	24.2	2433	9.1	5965	2.0
1937 . . .	17,187	1.0	8386	- 2.6	2851	17.2	5950	- .3
1938 . . .	16,805	- 2.2	7192	- 14.2	9613			

¹ Source: D. Anderson, *Taxation, Recovery, and Defense*, Monograph No. 20, Temporary National Economic Committee, Washington, D. C., 1940, p. 52.

TABLE LXXI¹PERCENTAGE OF GOVERNMENT EXPENDITURES BY LEVELS OF GOVERNMENT,
1923-1938

<i>Year</i>	<i>Federal</i>	<i>State</i>	<i>Local</i>	<i>Year</i>	<i>Federal</i>	<i>State</i>	<i>Local</i>
1923	34.6	13.6	51.8	1931	28.7	18.6	52.7
1924	29.9	14.9	55.2	1932	33.8	17.2	49.0
1925	28.4	15.1	56.5	1933	33.6	18.3	48.1
1926	27.5	14.8	57.7	1934	43.7	15.0	41.3
1927	26.2	15.4	58.4	1935	46.2	14.8	39.0
1928	25.5	16.2	58.3	1936	50.6	14.3	35.1
1929	25.5	16.7	57.8	1937	48.8	16.6	34.6
1930	26.4	18.2	55.4	1938	42.8	57.2	

There were small annual percentage increases from 1923 to 1932 over a ten-year period, then a sharp decrease of 14.1 per cent in 1933. For the three years following, 1934-1936, there were relatively large increases, the largest being 20.6 per cent in 1934. In 1937 and 1938 the total expenditures remained about the same as in 1936 with a small increase in 1937 and a small decrease in 1938.

Trends in Local Expenditures. If a breakdown of these total expenditures into federal, state, and local be made, we find the trends somewhat different for the three levels of government. The largest percentage increase of local expenditures was in 1924 and the second largest in 1925. The local expenditures continued to increase each year over the preceding year until 1929, after which there were slight decreases each year until 1933 when there was a sharp decrease of 15.8 per cent, since which time the local expenditures have not changed materially.

Trends in State Expenditures. From 1923 to 1931, inclusive, a period of nine years, the state expenditures increased each year. The largest percentage increase was in 1924, the same year that saw the largest percentage increase of the local expenditures. The second largest for this nine-year period was in 1930, the year the local governments began to retrench in their expenditures. All through the 'twenties both state and local governments increased expenditures but the state percentage increases were greater than those for the local governments except in 1925 and 1926. The

¹ Source: D. Anderson, *Taxation, Recovery, and Defense*, Monograph No. 20, Temporary National Economic Committee, Washington, D. C., 1940, p. 53.

states did not begin to reduce expenditures until 1932, two years after the local governments had begun, but the states reduced expenditures slightly in 1934, the year of the greatest percentage increase of total governmental expenditures, and increased them again beginning in 1935.

Trends in Federal Expenditures. While the local and state governments were increasing expenditures in the 'twenties the Federal government was either reducing them or keeping them as low as possible. The federal expenditures for each year from 1924 through 1929 were lower than they were in 1923. In 1930 they exceeded the 1923 expenditures only slightly, but in 1931 and 1932 there were rather large federal increases, the 1932 increase being the largest in this period except for the year 1934, when the increase over the preceding year was 56.8 per cent. In the following three years federal expenditures more than doubled. In 1933 they were \$3,793,000,000 and in 1936 they were \$8,611,000,000, an increase of \$4,818,000,000 or 127 per cent over the figure of three years before.

Functional Distribution of Expenditures — Federal, State, and Local. Tables LXXII and LXXIII give the functional expenditures in total amounts, in percentages, and in relative rank for the different levels of government in 1938. Table LXXII shows many of the aspects of expenditures which are significant today. It shows, for instance, that the Federal government granted to the states and local governments \$805,000,000, or 10.5 per cent of the total federal expenditures, while the states granted to the local units \$1,400,000,000, or 32.3 per cent of their total expenditures. Most of the federal grants are to the states and for all functions of government except for debt service and police and other protection. State grants to local governments are for education, highways, agriculture, relief, welfare, health, and other general governmental functions. Local governments make small grants to the states for highways and social welfare.

Table LXXIII reveals that relief, welfare, and social security ranked highest among federal expenditures and that defense came second; that highways ranked first among state expenditures and education second; and that education was the largest single item of local expenditures. The Federal government spent almost three-fourths of its total for four functions: (1) relief, welfare, and social

TABLE LXXII¹

FEDERAL AND ESTIMATED STATE AND LOCAL GENERAL GOVERNMENT EXPENDITURES, FISCAL YEAR ENDING IN 1938
(In Millions of Dollars)

Function	Expenditures from Own Sources				Intergovernmental Grants				Expenditures for Own Functions			
	Federal	State	Local	Total	Federal to State	Federal to Local	State to Local	Local to State	Federal	State	Local	Total
1. Education	177	818	1418	2,413	58	102	628	—	17	248	2148	2,413
2. Highways and streets	260	900	510	1,670	219	24	300	23	17	842	811	1,670
3. Agriculture and natural resources	1000	73	3	1,076	27	—	2	—	973	98	5	1,076
4. National defense	1610	12	—	1,622	2	—	—	—	1608	14	—	1,622
5. Police and other protection	44	138	566	748	—	—	—	—	44	138	566	748
6. Relief, welfare, and social security	2182	637	266	3,085	260	—	315	9	1922	591	572	3,085
7. Net additions to social security reserves	489	516	—	1,005	41	—	—	—	448	557	—	1,005
Social security reserves	(574)	(707)	—	(1,281)	(41)	—	—	—	(533)	(748)	—	(1,281)
Withdrawals included in (6) above	(85)	(191)	—	(276)	—	—	—	—	(85)	(191)	—	(276)
8. Health and hospitals	36	270	265	571	16	—	7	—	20	279	272	571
9. Interest	926	121	592	1,639	—	—	—	—	926	121	592	1,639
10. All other	902	738	2001	3,641	10	46	136	—	846	612	2183	3,641
11. Total expenditure	7626	4223	5621	17,470	633	172	1388	32	6821	3500	7149	17,470
12. Debt retirement	65	135	529	729	—	—	12	—	65	123	541	729
13. Total disbursement, including debt retirement	7691	4358	6150	18,199	633	172	1400	32	6886	3623	7690	18,199

¹ Source: *The Bulletin of the Treasury Department*, Aug., 1939.

security, (2) defense, (3) agriculture and natural resources, and (4) interest. The states spent about two-thirds for four functions: (1) highways and streets, (2) education, (3) relief, welfare, and social security, and (4) net addition to social security reserves. The local governments spent only about one-half of their total for four functions: (1) education, (2) interest, (3) police and other protection, and (4) debt retirement.

TABLE LXXIII¹

PERCENTAGE DISTRIBUTION OF EXPENDITURES — FEDERAL, AND ESTIMATED STATE AND LOCAL, FISCAL YEAR 1938

(Figures in parentheses indicate the rank of the items.)

<i>Function</i>	<i>Federal</i>	<i>State</i>	<i>Local</i>	<i>Total</i>
Education	2.3 (8)	18.8 (2)	23.1 (2)	13.3 (3)
Highways and streets	3.4 (7)	20.6 (1)	8.3 (6)	9.2 (4)
Agricultural and natural resources	13.0 (3)	1.7 (10)	—	5.9 (7)
National defense	20.9 (2)	.3 (11)	—	8.9 (6)
Police and other protection . . . . .	.6 (10)	3.2 (7)	9.2 (4)	4.1 (9)
Relief, welfare, social security	28.4 (1)	14.6 (4)	4.3 (7)	17.0 (2)
Net additions to social security reserves	6.4 (6)	11.8 (5)	—	5.5 (8)
Health and hospitals . . . . .	.5 (11)	6.2 (6)	4.3 (8)	3.1 (11)
Interest	12.0 (4)	2.8 (9)	9.6 (3)	9.0 (5)
All other expenditures	11.7 (5)	16.9 (3)	32.6 (1)	20.0 (1)
Debt retirement . . . . .	.8 (9)	3.1 (8)	8.6 (5)	4.0 (10)
Total	100.0	100.0	100.0	100.0

Trends in Functional Expenditures by the Federal Government, 1931-1939. Table LXXIV and Fig. 56 give the functional breakdown of federal expenditures for the years from 1931 to 1939. The data cover the last two years of the Hoover Administration and seven years of the New Deal. Of the nine groups of functions included in the breakdown three — unemployment relief, agricultural adjustment, and social security and railroad retirement — did not appear until after the advent of the New Deal, but by 1939 these three accounted for approximately 45 per cent of the total expenditures, and each was at its highest point in 1939. The expenditures for four of the other six had increased markedly in the period covered; for public works, 163.9 per cent, national defense,

¹ Source: D. Anderson, *Taxation, Recovery, and Defense*, Monograph No. 20, Temporary National Economic Committee, Washington, D. C., 1940.

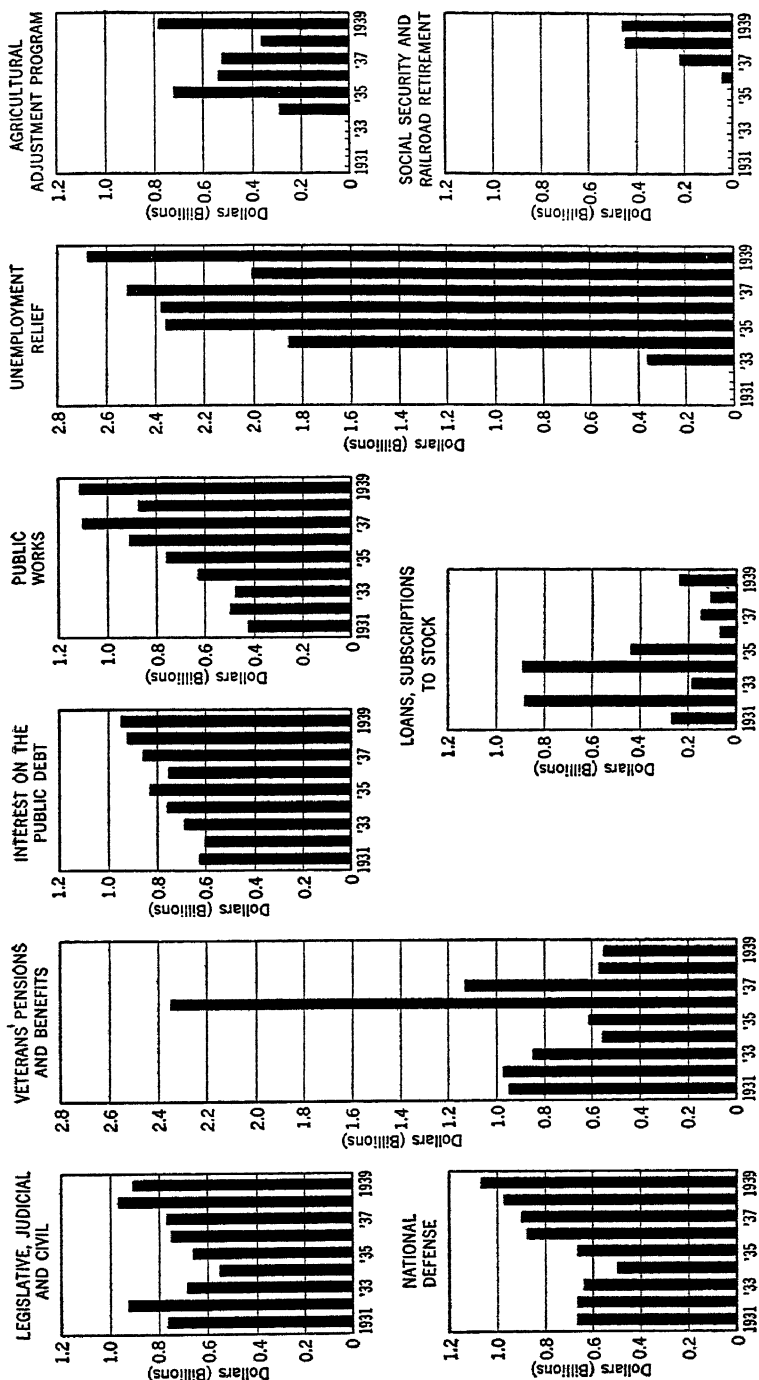


FIG. 56. EXPENDITURES OF THE UNITED STATES GOVERNMENT BY FUNCTION, 1931-1939

From *Taxation, Recovery, and Defense*, Monograph No. 20 of the Temporary National Economic Committee, Washington, D. C., 1940, p. 62.

TABLE LXXIV¹FUNCTIONAL BREAKDOWN OF FEDERAL EXPENDITURES, 1931-1939
(Dollar Figures in Millions)

	1931	1932	1933	1934	1935	1936	1937	1938	1939	Per Cent Increase 1931-39	Dollar Increase 1931-39
Legislative, judicial, and civil establishments	\$765	\$927	\$680	\$557	\$657	\$757	\$776	\$972	\$908		
Per cent of total	20.8	20.4	17.6	9.3	9.4	8.7	9.5	13.4	10.4		
Per cent increase		21.2	-26.6	-18.1	18.0	15.2	2.5	25.3	-6.6	18.7	143
National defense	\$667	\$664	\$633	\$494	\$663	\$880	\$895	\$980	\$1056		
Per cent of total	18.2	14.6	16.4	8.2	9.5	10.2	10.9	13.5	12.1	58.3	
Per cent increase		-0.4	4.7	-22.0	34.2	32.7	1.7	9.5	7.7		389
Veterans' pensions and benefits	\$943	\$973	\$849	\$554	\$604	\$2348	\$1128	\$572	\$545		
Per cent of total	25.7	21.5	22.0	9.2	8.6	27.0	13.8	7.9	6.3	-42.2	
Per cent increase		3.2	-12.7	-34.7	9.0	288.7	-52.0	-49.3	-4.7		-398
Interest on the public debt	\$612	\$599	\$689	\$757	\$821	\$749	\$866	\$926	\$940		
Per cent of total	16.7	13.2	17.8	12.6	11.7	8.6	10.6	12.8	10.8	53.6	328
Per cent increase		-2.1	15.0	9.9	8.5	-8.8	15.6	6.9	1.5		
Public works	\$421	\$499	\$472	\$625	\$766	\$914	\$1102	\$880	\$1111		
Per cent of total	11.5	11.0	12.2	10.4	10.9	10.5	13.5	12.2	12.8	163.9	
Per cent increase		18.5	-5.4	32.4	22.6	19.3	20.6	-20.1	26.3		690
Loans, subscriptions to stock, etc. (net)	\$263	\$873	\$181	\$882	\$424	\$71	\$150	\$104	\$231		
Per cent of total	7.2	19.3	4.7	14.7	6.0	0.8	1.8	1.4	2.7	-12.2	-32
Per cent increase		231.9	-79.3	387.3	-51.9	-83.3	111.3	-30.7	122.1		
Unemployment relief			\$360	\$1853	\$2363	\$2372	\$2527	\$1996	\$2677		2677

	1931	1932	1933	1934	1935	1936	1937	1938	1939	Per Cent Increase 1931-39	Dollar Increase 1931-39
Per cent of total			9.3	30.8	33.7	27.4	30.9	27.6	30.7		
Per cent increase				414.7	27.5	0.4	6.5	- 22.4	34.1		
Agricultural Adjustment program				\$289	\$712	\$533	\$527	\$362	\$782		- 782
Per cent of total				4.8	10.2	6.2	6.4	5.0	9.0		
Per cent increase					146.4	- 25.1	- 1.1	- 31.3	116.0		
Social security and railroad retirement						\$42	\$206	\$447	\$457		457
Per cent of total						0.5	2.5	6.2	5.2		
Per cent increase							390.5	117.0	2.2		
Total expenditures (exclusive of debt retirement)	\$3671	\$4535	\$3864	\$6011	\$7010	\$8666	\$8177	\$7239	\$8707	137.2	5036
Per cent increase		+ 23.5	- 14.8	+ 55.6	+ 16.6	+ 23.6	- 5.6	- 11.5	20.3		

¹ Source: D. Anderson, *Taxation, Recovery, and Defense*, Monograph No. 20, Temporary National Economic Committee, Washington, D. C., 1940.

58.3 per cent, interest on the public debt, 53.6 per cent, and for legislative, judicial, and civil establishments, 18.79 per cent. All these except the last were at their highest points in 1939. The cost of veterans' pensions and benefits had decreased 42.2 per cent in this period and were at the lowest point in 1939. Government loans were 12.2 per cent less in 1939 than in 1931. The addition of the three new functions, unemployment relief, agricultural adjustment, and social security and railroad retirement, has markedly changed the distribution of the Federal government's expenditures. The total expenditures in 1939 had increased over the 1931 expenditures 137.2 per cent.

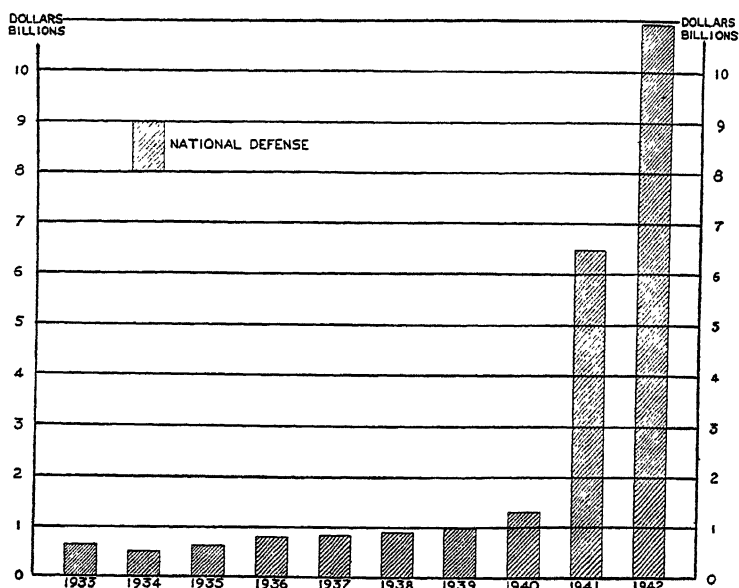


FIG. 57. NATIONAL DEFENSE EXPENDITURES FISCAL YEARS 1933-1940
(1941-1942 ESTIMATED)

With the outbreak of the European war in 1939, the United States began greatly to increase the expenditures for defense. Figures 57 and 58 show the growing importance of defense expenditures in the country. President Roosevelt, in his budget message of January, 1941, recommended that 62 per cent of all the expenditures for the fiscal year ending June 30, 1942, be for national defense. The total federal expenditures for the fiscal year ended June 30, 1941 were \$12,710,629,823, \$6,301,043,165 of which

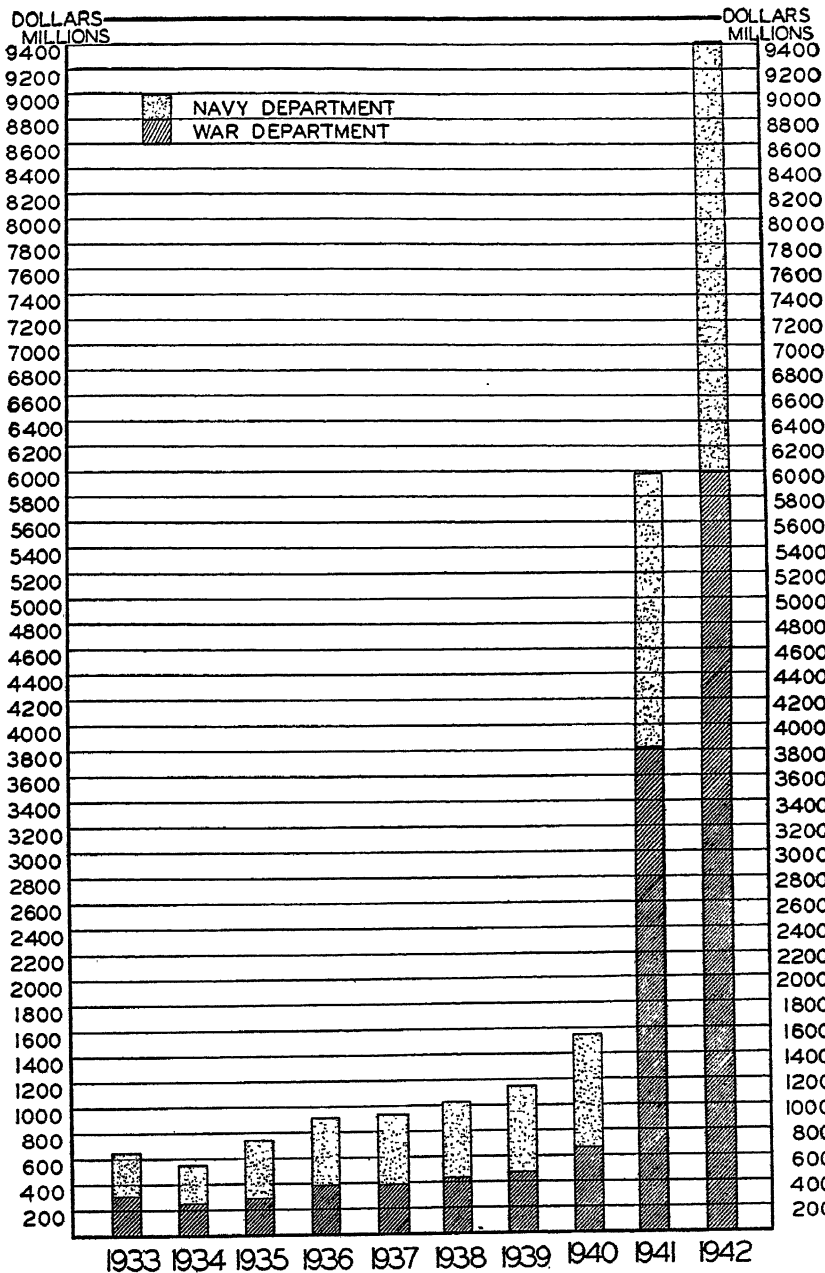


FIG. 58. NATIONAL DEFENSE EXPENDITURES BY NAVY AND WAR DEPARTMENTS, FISCAL YEARS 1933-1940 (1941-1942 ESTIMATED)

went for defense purposes. The estimated expenditures for the fiscal year to end June 30, 1942 are \$30,575,796,162. \$23,996,525,400 of this is to be spent for defense purposes. President Roosevelt in his budget message, January 7, 1942 recommended a total expenditure of \$58,927,992,000 for the fiscal year to end June 30, 1943. \$52,786,186,000 of this is recommended for national defense. Now that we are in the World War it is apparent that many billions will need to be spent in the next few years for war purposes.

Recently there has been considerable demand in Congress for a further reduction in nondefense spending. A committee composed of Secretary Morgenthau, Director of the Budget Harold Smith, and twelve members of Congress has made its report on the possibilities of retrenchment in nondefense activities. Secretary Morgenthau thinks one billion dollars can be saved by:

1. Elimination of highway aid to states in 1942-1943.
2. Elimination or drastic reduction of CCC and NYA activities.
3. Slashes in aid to farmers.
4. Postponement of unnecessary power and irrigation projects.
5. Postponement of river, harbor, and flood-control jobs.

Trends in State Expenditures by Functions. The trends in the functional distribution of expenditures in the states are illustrated by Figs. 59 and 60 which indicate the trends in Illinois. In Illinois the ordinary expenses of state government have not increased since 1929; in fact there is a slight reduction. There has been some increase for interest and debt retirement. The highways have received considerable increases in the period from 1929 to 1940, as has education. However the great increase has been for welfare needs. The destitution that came from unemployment required millions of dollars to alleviate. More money was needed also for the aged, for widowed mothers, for the blind, and for more inmates of charitable and penal institutions. Figure 60 reveals that the state of Illinois has taken over many responsibilities formerly assumed by local governments, while at the same time it has received a greater amount of aid from the Federal government.

Trends in Local Expenditures by Functions. Of the three levels of government, the local government performs those functions which are among the most urgent public services (aside from

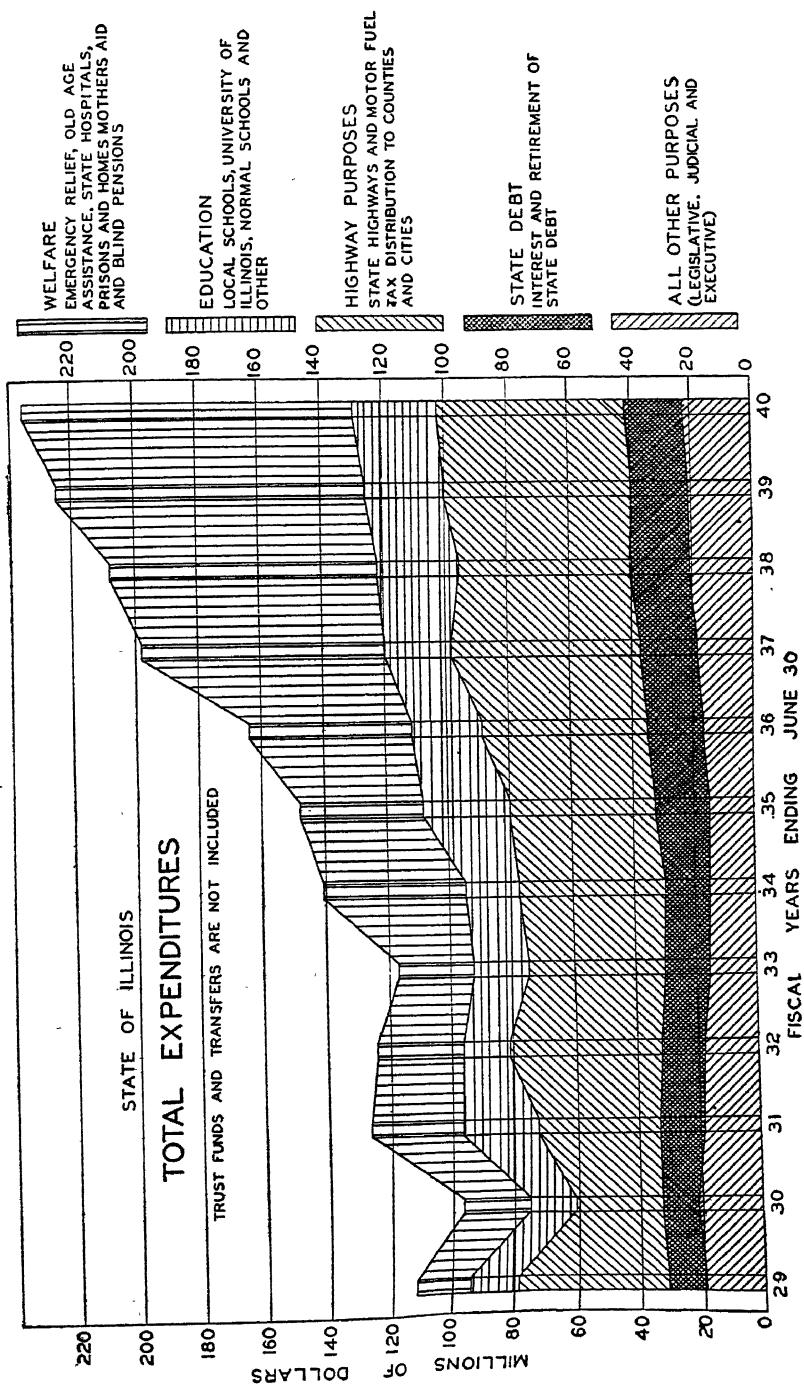


Fig. 59

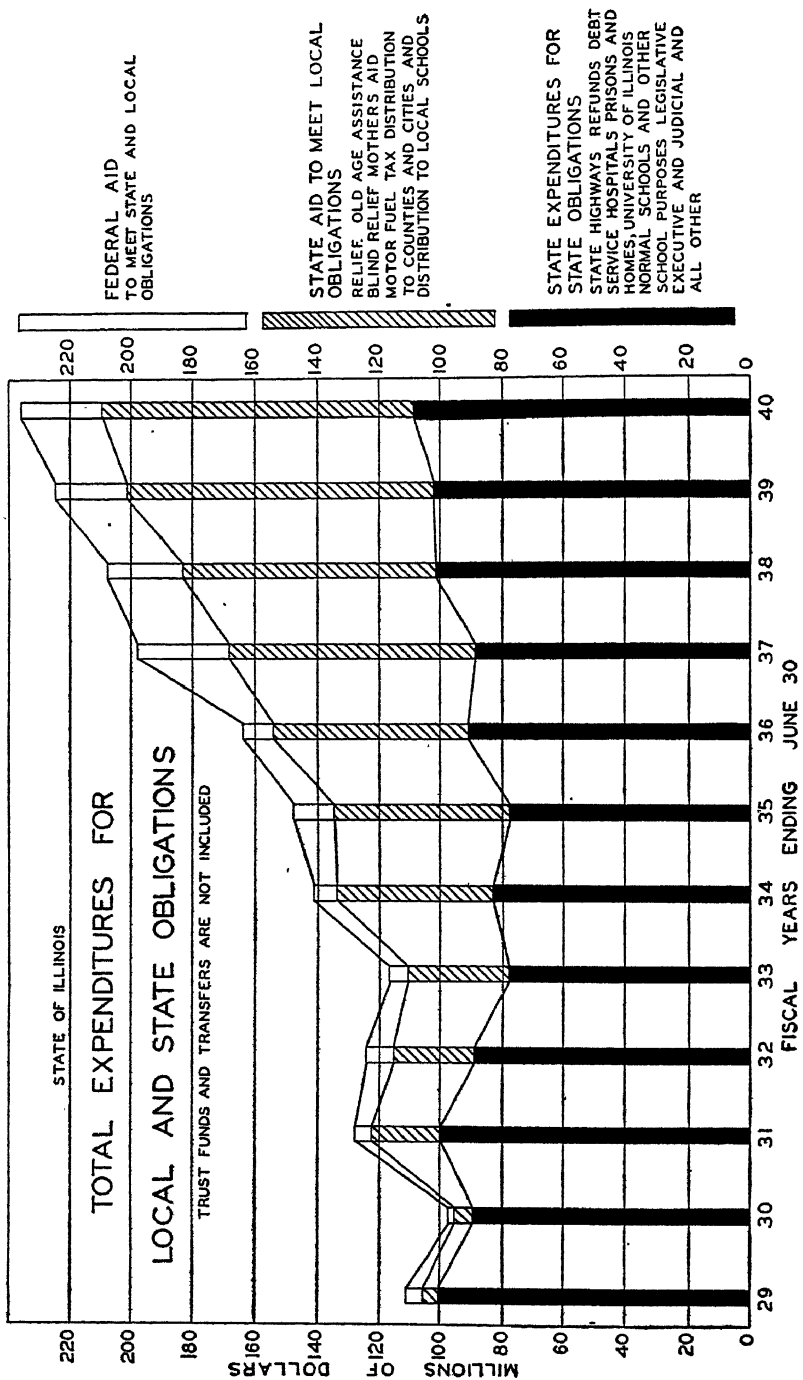


Fig. 60

national defense) in modern life and it thus affects most intimately the country's enterprise and culture. This is especially true of our great cities which must provide such essential services as providing water, guarding health, protecting life and property, cleaning streets, educating children, furnishing recreation, controlling traffic, and facilitating and regulating trade and industry.

Urban budgets and payrolls have increased at an even faster rate [than the number of urban places and population] with expenditures trebling since the year 1915. Urban local authorities have been consuming almost one-third of the total public budgets. . . . In such service functions of government as health, policing, education, recreation, and others which are essential to the life of the city, local authorities are more active and spend more per capita than either the Federal government or the States, or, for that matter, more than both of these combined.¹

Table LXXV indicates the per capita expenditures by major functions of the various levels of government for 1932. While the proportions of expenditures between local, state, and Federal government have changed somewhat, the general picture still holds true.

TABLE LXXV²
PER CAPITA EXPENDITURES OF VARIOUS LEVELS OF GOVERNMENT,
BY FUNCTIONS, 1932

<i>Functions</i>	<i>Federal</i>	<i>State</i>	<i>Cities</i>
General government	\$ 2.78	\$ 0.99	\$ 3.97
Protection . . . . .	.13	.70	8.71
Health . . . . .	.10	.30	4.24
Highways	1.78	1.89	3.38
Welfare . . . . .	.55	2.20	6.21
Education . . . . .	.11	4.84	16.68
Recreation . . . . .	.10	.07	1.67
Total (including miscellaneous expenditures)	\$21.10	\$12.03	\$47.88

As the functions of urban government have expanded, so have the expenditures. Between the years 1903 and 1930 the per capita expenditure for each major governmental activity has continually

¹ National Resources Committee, *Urban Government*, Supplementary Report of the Urbanism Committee, U. S. Government Printing Office, Washington, D. C., 1939, Vol. I, pp. 8-9.

² From National Resources Committee, *Urban Government*, Supplementary Report of the Urbanism Committee, U. S. Government Printing Office, Washington, D. C., 1939, Vol. I, p. 9.

risen. Table LXXVI shows not only the extent of this rise but indicates that the rate of increase has been greatest in the newer social services which local governments have been called upon to render.

TABLE LXXVI¹

PER CAPITA LOCAL GOVERNMENT EXPENDITURES BY FUNCTIONS IN CITIES OF 30,000 AND OVER, 1903-1930

	1903	1926	1930	Per- centage Increase	Rank Order of Expendi- tures	Rank Order of Increase
Education	\$5.06	\$8.66	\$10.05	98.6	1	2
Protection	4.19	4.49	5.17	23.4	2	5
Health	1.51	2.25	2.55	68.9	3	4
Highways	2.05	2.05	2.17	5.9	4	6
Welfare	1.08	1.32	1.86	72.2	5	3
Recreation . . . . .	.44	.77	.95	115.9	6	1
Totals (including gen- eral and miscella- neous functions) .	\$16.49	\$22.54	\$26.36	\$59.9	—	—

The Future of Governmental Expenditures. It seems likely that governmental expenditures will continue to increase in the United States as well as in other countries of the world. Government expenditures have always increased both during and following wars. Reconstruction after a war generally raises governmental expenditures much above what they were preceding the war. The depression years of the 'thirties were the result, at least in part, of the dislocations produced by the First World War. The emergency expenditures of that period greatly increased the general level of governmental expenditures. Fear of war produces increased military expenditures. Rivalry in armaments saddles upon the people gigantic financial burdens. At least for the immediate future no end of such expenditures seems to be in sight.

More and more services are being supplied by government. With the increase in urbanization there is also an increase in the costs per capita of police protection, water supply, education, health, sanitation, and other services.

¹ National Resources Committee, *Urban Government*, Supplementary Report of the Urbanism Committee, U. S. Government Printing Office, Washington, D. C., 1940, Vol. I, p. 10.

The continued concentration of business brings new governmental problems. More controls are needed to serve and protect labor, the consumer, the investor, and industry itself. The government sets up agencies and appropriates money for the promotion of industry and agriculture. In recent years vast sums have been spent to promote agriculture. The National Industrial Recovery Act was passed to promote the interests of industry. The National Labor Relations Act was to protect the interests of labor. These are only a few of the many governmental efforts to promote economic life.

The government itself has undertaken to furnish some goods and services on a commercial basis. The Tennessee Valley Authority furnishes power; many cities furnish water, light, and transportation. Sometimes these undertakings result in deficits which must be met by public funds.

The ideals of democracy and the recognition of the need for raising the general cultural level are responsible for some of the increased expenditures. The building of better roads, better schools, more recreation, better public sanitation, free art galleries, and many other cultural improvements at public expense simply means that a larger portion of the national income must pass through public treasuries. There is a change in the attitude of people toward their government. It is no longer looked upon as a necessary evil, but is being used more and more to promote the good life. Under such conditions public expenditures may be expected to increase.¹

TERMS TO BE UNDERSTOOD

budget	comptroller
executive budget	legislative budget
commission budget	appropriation
audit	lump sum appropriation
	fiscal period

QUESTIONS FOR DISCUSSION

1. Suggest reasons why governmental expenditures have increased in recent years.
2. Which type of budget would you suggest for a large city like Chicago or New York?

¹ Harold H. Groves, *Financing Government*, Henry Holt & Company, New York, 1939, Chap. 23.

3. What are the Constitutional limitations on the power of Congress to appropriate money? Do you approve of these?
4. Criticize the provisions in the constitution of the state of New York concerning appropriation bills.
5. What power has Congress over presidential budgets? Would you change that power?
6. Suggest government activities outside budget control.
7. What aid does public accounting furnish an executive in his supervision of expenditures?
8. What degree of supervision should an executive exercise over fiscal management?
9. How has the meaning of audit changed in recent years?
10. What were the functions of the Comptroller General of the United States? What were the major criticisms of the office during the first few years? Why did criticisms increase?
11. What are the duties of the Director of the Budget? What defects can you point out that have not been eliminated by the Reorganization of the Federal government?
12. Suggest methods of improving public finance practices in local units of government.
13. Indicate recent tendencies in public expenditures, federal, state, and local. Explain the major trends.

FOR FURTHER STUDY

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CONSTITUTIONAL REFORM AND SOCIAL PROGRESS

Culture Lag¹ and the Federal Constitution. In 1811 Washington Irving journeyed from New York to Washington to attend a ball in honor of President and Mrs. James Madison. Traveling by stagecoach, he traversed the distance between the two cities in fifty-two hours — a distance now covered approximately in four hours by train or in one and one-half hours by airplane. This rapid evolution in transportation is typical of what has taken place with but few setbacks in many fields of American culture.² However, advances in the nonmaterial phases of the culture of the people of the United States, as elsewhere, have been relatively slow, and it must be admitted that “social institutions are not easily adjusted to inventions.”³

Like all other fundamental laws, the Constitution of the United States has not escaped “institutional inertia.” This exists largely because of the fact that behind the Constitution’s imposing facade conflicts are constantly being waged between the defenders of permanence on the one hand and the champions of change on the other. The first group wishes to maintain the *status quo* for a variety of reasons, prominent among which there is frequently a privileged position in the present order. On the other hand, the second group desires change or is even willing to resort to revolution as a means of advancing its members’ own personal fortunes or to attain an ideal. The end result sometimes is that the two opposing forces cancel each other out and nothing is accomplished. Another consequence is implied in the following words:

The Constitution today is suffering because of the worship it receives from overzealous admirers. It also suffers from unwarranted attacks by poorly informed critics.⁴

¹ See Chap. I, *Social Change and Social Problems*, pp. 16–20.

² See Chap. III, *Technology*, pp. 73–107.

³ President’s Research Committee on Social Trends, *Recent Social Trends in the United States*, McGraw-Hill Book Company, Inc., New York, 1933, p. xxvii.

⁴ Ben Albert Arneson, *Elements of Constitutional Law*, Harper & Brothers, New York, 1928, p. 1.

What is needed is a careful study of both the merits and defects of the Constitution and constitutional law, with the hoped-for result that blind worshippers of them will become less worshipful and indiscriminate critics more respectful.

The First Task of a Constitution. John Dickinson, after commenting on the fact that social evolution is largely responsible for the controversies which arise under a written constitution, stated:

The function of a constitution is to provide . . . a framework of order within which change can proceed without endangering stability. The first and main task of a constitution is to provide a mechanism of orderly government through which not merely the existing laws may be effectively executed but new laws can from time to time be adopted to meet new situations and the wishes of the people.¹

An attempt at discovering how well the United States Constitution and the constitutions of the states have met this need will be made in the following pages.

Guideposts to Social Progress. In any complex society, social progress is difficult to define and to measure. Thus it is easy to confuse rapid technological change, phenomenal population growth, an increase of the total wealth, and the mastery of the forces of nature with social progress. All of these, however, may mean a society where men are enslaved by rather than freed from the machine, where the few reap the lion's share of the fruits of the labor of the many, and where the finer human qualities and potentialities are thwarted.

The criteria of social progress have been summarized in these words:

. . . a higher level of material wants and means of satisfying them; and expansion of the numbers of men, their energies and their contacts; greater emphasis upon intellectual values; wider participation in all material and intellectual gains; therefore, wider concepts of truth, greater liberty, greater order, and finally greater solidarity; for we are freest when love and intelligence constrain us to identify ourselves with our fellows.²

Encouraging Signs. Despite the present globe-encircling war, any student of the history of the last 500 years knows that in general the world has advanced far beyond the ignorance and cruelty of

¹ John Dickinson, "The Constitution and Progress," *The Annals of the American Academy of Political and Social Science*, 181: 12, Sept., 1935.

² Arthur A. Todd, *Theories of Social Progress*, The Macmillan Company, New York, 1918, pp. 118, 119. See also Giddings, *Principles of Sociology*, The Macmillan Company, New York, 1899, pp. 356-360.

the past. Insane persons chained in dungeons, or exposed in cages to public view, sailors murderously flogged with the cat-o'-nine tails while on the high seas, children of four years of age working in coal mines, Negroes degraded by beastly human slavery, white laborers working twelve hours a day for 2 cents an hour — all these and other victims of man's inhumanity to man are no longer permitted to exist by a stronger, sharper community conscience in most parts of what we call the "civilized" world.

Social Progress under the Federal System. In the battles for the advancement of social welfare which must be fought in every age, government is taking an increasingly important part. In fact its role is so outstanding — largely because of the decline of the influence of such primary institutions of society as the family and the church — that "social progress" may roughly be thought of as referring chiefly to legislation that extends the helpful activities and the necessary controls of government into the spheres of economic, political, and social life. Likewise constitutional reform involves the continual changing of the Constitution of the United States and the constitutions of the states of the Union to permit such remedial legislation. Thus Edward S. Corwin wrote: "The first requirement of the Constitution of a progressive society is that it keep pace with that society."¹ That the national and state constitutions and governments have at times failed to meet these needs hardly requires demonstration in the face of the great nationwide problems in the fields of agriculture and industry — problems with which no one unit of the federal system seems to have the legal mandate to grapple fully and effectively.

The Uphill Campaign against Child Labor. When the pertinent economic, political, and legal factors are considered together, the efforts to suppress child labor afford a striking illustration of this lack of effective power. Legislation to control child labor has had a rather long history.² To be sure, many of the more progressive states by 1915 had enacted antichild-labor legislation, often against the protests of some of the manufacturers who feared the competition of employers of children in other states. Still the evil persisted, especially in the South.

¹ Quoted by Marshall E. Dimock, *Modern Politics and Administration*, American Book Company, New York, 1937, p. 187.

² See Chap. XX, Labor Legislation, pp. 571-572.

Interstate Commerce and Child Labor. For this and other reasons, after being cogently urged to act by the National Child Labor Committee, in 1916 Congress passed the Keating-Owen Law. The chief provision of this statute forbade the transportation in interstate commerce of the product of any mine or quarry in which within thirty days prior to its removal therefrom children under the age of sixteen had been allowed to work. A similar prohibition with respect to manufacturing establishments placed the minimum working age at fourteen years, and children under sixteen could work no more than eight hours a day or six days a week, between the hours of seven in the morning and six in the evening.

In the case of *Hammer v. Dagenhart* (1918),¹ the Supreme Court of the United States held the Act unconstitutional on the ground that it did not apply to interstate commerce at all, but was instead a regulation of mining and manufacturing before interstate commerce began and, as such, constituted interference with the reserved powers of the states.

Police Power Taxation and Child Labor. After this setback the opponents of child labor turned to the taxing clause as an apparently safe peg on which to hang the General Revenue Act of February 14, 1919. This law imposed a 10 per cent excise tax upon the annual net profits of mines, quarries, and factories that during any portion of the taxable year employed children contrary to the regulations, which were essentially the same as those of the Keating-Owen Act.

Members of Congress versed in Constitutional history and law were aware that the Supreme Court had upheld a federal tax of 10 per cent on state bank notes imposed in 1866;² that in 1890 a tax of \$10 per pound had been placed on smoking opium, and to cripple the traffic in the dangerous drug this tax had been raised to \$300 per pound in 1914; and that in 1904 the Court had upheld a 1902 levy of 10 cents per pound upon all oleomargarine colored to look like butter.³ In these cases the Court's opinion seemed to imply the valid use of taxation for a purpose other than the raising of revenue — that is, the exercise of the police power⁴ to protect the public health, morals, safety, and general welfare. Could not child labor be also taxed out of existence?

¹ 247 U. S. 251 (1918).

² *Veazie Bank v. Fenno*, 8 Wallace 533 (1869).

³ *McCray v. United States*, 195 U. S. 27 (1904).

⁴ See Chap. XLI, Public Safety.

But in 1922 the new law met the fate of its predecessor. This time, in the case of *Bailey v. Drexel Furniture Company*,¹ the Supreme Court held the real purpose of the tax to be regulatory under the police power and not the raising of revenue. According to the opinion, an admittedly legal power — that is, taxation — had been used for an illegal purpose, which was to punish or destroy at the expense of the reserved power of the states to regulate manufacturing.²

The Child-labor Amendment. In 1924, after being thus checkmated a second time, Congress made a bid for the authority it seemingly lacked by submitting to the states the so-called Child-labor Amendment, which, if and when adopted, will become the Twenty-second. This proposal reads:

Section 1 — The Congress shall have power to limit, regulate, and prohibit the labor of persons under eighteen years of age.

Section 2 — The power of the several States is unimpaired by this article except that the operation of State laws shall be suspended to the extent necessary to give effect to legislation enacted by the Congress.

During the seven years following submission to the states of the antichild-labor proposal, only Arkansas (1924), Arizona (1925), California (1925), Colorado (1931), Montana (1927), and Wisconsin (1925) ratified it, while a number of legislatures adopted resolutions of rejection.

Between 1933 and 1935, when most of the industrial codes administered under the National Industrial Recovery Act prohibited the employment of persons under sixteen years of age, fourteen legislatures adopted the amendment, including eleven that had previously rejected it.³ Upon the invalidation of the NIRA codes in May, 1935, described elsewhere, adoptions continued until 1937, when four states — Kansas, Kentucky, Nevada, and New Mexico — brought the number of ratifications up to twenty-eight, eight more being necessary. Then came several rejections, those of New York⁴ and Massachusetts⁵ being among them. The states which have

¹ 259 U. S. 20 (1922).

² See Robert Cushman, *Leading Constitutional Decisions*, 6th ed., F. S. Crofts & Co., New York, 1938, pp. 255-261.

³ Frederic A. Ogg and P. Orman Ray, *Introduction to American Government*, 6th ed., D. Appleton-Century Company, Inc., New York, 1938, p. 60.

⁴ *Ibid.*

⁵ *Ibid.*

either refused to ratify or have taken no action on the amendment comprise a number of agricultural commonwealths in the West and deep South, and a few industrial states of the East.

Criticisms of the Proposal. Practically all the strictures aimed at the antichild-labor amendment can be summarized under three headings: (1) That it invades the rights of parents; (2) that it would create a vast, meddlesome federal bureaucracy while weakening the feeling of local responsibility for child welfare; (3) that it encroaches upon the rights of states.

It is difficult for the majority of social scientists to concede the validity of any of these objections, which to a large degree emanated from manufacturers' organizations.¹ These, it would seem, for certain purposes of their own, stirred up the fears of farmers and farm organizations that Congress would enact legislation interfering with the work of children on the farm or within the home.² Other groups had misgivings about the possibility of the extension of the regulation of Congress over such matters of parental concern as education, while overlooking the obvious fact that many state legislatures may now, within certain legal limits, control both the labor and the education of persons under eighteen years of age.³

From the perspective of the present time, when a gigantic national defense and war program is not only increasing the number of federal officeholders by leaps and bounds⁴ but is also bringing the states more and more into partnership with the national government, the second and third arguments against the proposal do not seem important. No one familiar with American history can avoid the conclusion that the whole trend of modern times has been away from the states' rights doctrine, and that all too often "states' rights" have furnished an excuse for "states' wrongs" supported by vested interests.

Substitute Measures. While the Twenty-second Amendment was still a live issue, to meet the arguments of those opposed to the proposal Senator Arthur A. Vandenberg brought forth a substitute

¹ Julia E. Johnsen, compiler, *Child Labor* (The Reference Shelf, Vol. III, No. 9), The H. W. Wilson Company, New York, 1926, p. 72. Summarized from the article, "Real Facts about Child Labor Amendment," *Ohio Christian News*, 3: 1, 3, Jan. 9, 1925.

² *Ibid.*, p. 73.

³ *Ibid.*, p. 55. Summarized from an article by Manley O. Hudson, *American Child*, 6: 1-7, Nov., 1924.

⁴ See Chap. XXXIX, Public Administration.

amendment. This provided for the Congressional power (1) to "limit or prohibit" but not to "regulate" child labor; and (2) to restrict the labor of persons under sixteen only, instead of eighteen, and then not all work, but only "labor for hire."¹ The Vandenberg proposal was defeated, as was the Black-Connery Bill, which would have prohibited "the employment of children under sixteen [eighteen in the case of hazardous employments] in all industries engaged in or substantially affecting interstate commerce."² Congress has been successful, however, in inserting antichild-labor provisions into the Walsh-Healy Public Contracts Act (1937), the Jones Sugar Act (1937), and the Fair Labor Standards Act (1938).³

The Fair Labor Standards Act. Among other labor regulations there is in this statute a sixteen-year minimum age restriction on the producers of goods involved in interstate commerce, with the additional provision that the Children's Bureau of the Department of Labor, which enforces this part of the law, may raise the age minimum to eighteen, if an industry is found to be hazardous.⁴

On October 19, 1940, in the *F. W. Darby Lumber Company Case*⁵ and in the *Opp Cotton Mills Case*⁶ the United States Supreme Court held constitutional the hourly minimum wage, time-and-a-half payments (first case), and the industry-committee (second case) provisions of the Fair Labor Standards Act. A valuable by-product of the first decision was the specific overruling of the case of *Hammer v. Dagenhart*, which was discussed above. "Lawyers suggested that this opened the way for direct congressional action on child labor unhampered by the necessity of putting through a constitutional amendment."⁷ Because, however, the Fair Labor Standards Act technically applies to interstate rather than to intrastate commerce, which involves traffic only within the state, such action — unlikely to be taken by a

¹ Ogg and Ray, *op. cit.*, p. 60.

² *Ibid.* See also W. Rutledge, "The Federal Government and Child Labor," *Social Service Review*, 7: 555-571, Dec., 1933.

³ See Chap. XXII, Labor Legislation, p. 572.

⁴ *Ibid.*

⁵ *United States Supreme Court Advance Opinions, 1940-1941, 1940 Term*, The Lawyers Cooperative Publishing Company, Rochester, New York, Vol. 85, No. 7, pp. 395-407, Feb. 14, 1941.

⁶ *Ibid.*, pp. 407-422.

⁷ "Wage Hour O.K.," *Business Week*, No. 597, p. 46, Feb. 8, 1941.

Congress preoccupied with war matters — would not fully solve the child-labor problem. President Franklin D. Roosevelt was doubtless aware of this when he said: "Too many children are still living under conditions that must be corrected if our democracy is to develop to its highest capacity."¹

While one might plausibly argue that in the last few decades the rise in the American standard of living, the expansion of educational opportunities, and the refusal of some enlightened manufacturers to employ children have been more effective in reducing the number of child laborers than legislation has been or might be, there is nevertheless much truth in the President's words.

The General Welfare and the Broad Constitution. The above illustration will, it is hoped, make clear the tremendous problem involved in keeping constitutional reform even within sight of social progress. In fact they can hardly ever run abreast of each other, since laws and constitutions are usually more often the crystallizations of age-old mores than of new customs. It is also clear that the concept of social progress should include not merely the idea of remedial legislation authorizing more necessary governmental controls, but also all the needed advances toward a greater general welfare.

*The Living Constitution.*² Moreover, the Constitution should be viewed not merely as a written document, but also as a vast, living changing complex of rules, principles, and usages or customs. Constitutional reform should therefore be looked upon as including all the various methods by which the Constitution, in both its written and unwritten aspects, grows in word, rule of action, or deed. The broad Constitution is made up of (1) political customs, (2) fundamental statutes, (3) fundamental treaties, (4) the written constitution, and (5) fundamental court decisions.³ In the following pages these components will be examined for their contributions to social progress.

¹ Address to the members of the White House Conference on Children in a Democracy, Jan. 19, 1940, from selections by Harriet H. Schoen in *School and Society*, Vol. 51, No. 1310, p. 157, Feb. 3, 1941.

² McBain, Howard Lee, *The Living Constitution*, The Macmillan Company, New York, 1941.

³ Arneson, *op. cit.*, p. 7.

NONJUDICIAL CONSTITUTIONAL CHANGES

Reform through Usage. Extralegal¹ rules and customs enter as truly into the workings of all governments as do the stipulations of the written law. As far as the United States is concerned, the "rubber-stamp" electors, who every four years vote for the President in accordance with the November election returns, the one-time antithird-term tradition now broken, the President's cabinet as a body of political advisers, the caucus and committee systems in Congress, and the general course of development of party machinery, are all illustrations of this fact. As for their contributions to social progress there are no definite criteria available. Who, for instance, can strike the correct balance sheet for the American political party? In general, therefore, it is almost impossible to determine whether constitutional usages are houses on the rock of social progress or merely useless driftwood on the sands of time.

The Amending Process and Reform. The furtherance of social welfare through the formal change of the written Constitution of the United States is, in the main, slow and difficult. According to Ogg and Ray 2670 amendments to the fundamental law were proposed between 1789 and 1929, but only 26 were endorsed by Congress. Of these the states have so far ratified 21.² This lack of facility of amendment (which arises largely from the fact that the new and cumbersome machinery in addition to that of lawmaking must be employed) is said to place the United States Constitution in the rigid as opposed to the flexible category.

Any statute of Parliament of general application is amendatory of the flexible British Constitution. However, whether a constitution is rigid or flexible depends more upon the frequency of use of the machinery of amendment than upon the complexity or simplicity of the machinery itself.

Federal Procedure. At this point a careful consideration of Article V of the United States Constitution, wherein the methods of amendment are prescribed, is necessary. One of the best and simplest explanations of it is given by Professor William Anderson as follows:

¹ Anything "extralegal" is neither legal nor illegal, but is outside the scope of the law.

² Ogg and Ray, *op. cit.*, p. 54.

It has been said that there are four ways of amending the Constitution. This statement arises from the fact that there are two ways of proposing and two of ratifying amendments, and that either method of proposal may be linked up with either method of ratification. The four possibilities are shown in the accompanying diagram.

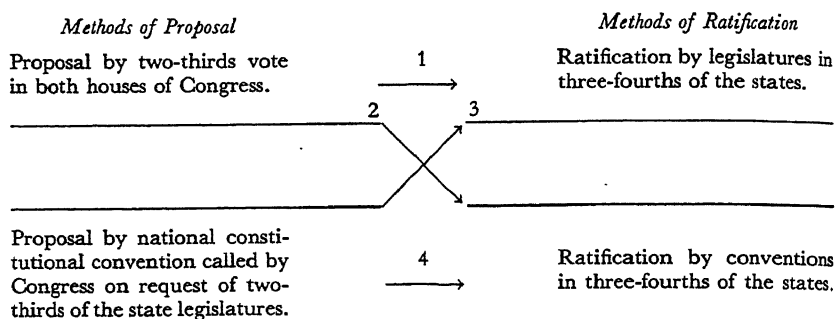


FIG. 61. METHODS OF AMENDING THE UNITED STATES CONSTITUTION

From William Anderson, *American Government*, Henry Holt and Company, Inc., New York, 1938, p. 107.

In fact the first method [proposal by Congress, ratification by state legislatures] has been used in all cases but one. The Twenty-first Amendment, repealing the Eighteenth, followed the second procedure [proposal by Congress, ratification by state conventions]. Methods 3 and 4 have not been used for amendments, but method 4 is very nearly the same as that used for the proposal and ratification of the Constitution itself.¹

Ancillary Facts. Some of the accompanying considerations as to the procedure described and diagrammed above are as follows:

1. According to Article V, "no State, without its consent, shall be deprived of its equal suffrage in the Senate." This provision is designed to prevent three-fourths of the states from divesting the others of their equal representation in the Senate.

2. A two-thirds vote of Congress means two-thirds of those present and voting, provided a quorum — the minimum simple majority necessary to do legal business — is in attendance, rather than two-thirds of the entire membership. It is thus possible for fewer than half of these to adopt a proposal, though not probable.

3. The President may not veto Congressional Constitutional proposals, since they are not legislation in the usual sense of the term.²

¹ William Anderson, *American Government*, Henry Holt and Company, Inc., New York, 1938, p. 107.

² See *Hollingsworth v. Virginia*, 3 Dallas 378 (1798).

4. Proposals may be made by national authorities alone — Congress or a national convention called by Congress on the request of two-thirds of the state legislatures, but ratification can be effected only by state agencies — legislatures or conventions in three-fourths of the states. The Supreme Court has held that a state which has a state-wide initiative and referendum may not refer to its voters for final approval a federal constitutional amendment.¹

5. Congress determines which of the two methods of ratification is to be employed. They may not be combined.

6. Congress may incorporate into its proposals time limits (seven years in the case of the Eighteenth, Twentieth, and Twenty-first Amendments) within which amendments must be ratified.²

7. A state may reconsider its rejection of an amendment but may not withdraw its ratification thereof.

8. Questions as to whether Congress may withdraw a pending amendment and substitute another for it; and whether it may repeal or amend a proposal after its submission to the states have never been judicially answered.

The Illinois Amending Process. "Amending procedure in several states [notably Illinois and Indiana] is hardly less difficult than the formal amendment of the national constitution."³ Thus Article XIV of the Constitution of Illinois provides that amending proposals may be made by a two-thirds vote of the General Assembly or by a constitutional convention. (No constitutional convention has been held since the year 1870.) When the former acts, it "shall have no power to propose amendments to more than one article of this Constitution at the same session nor to the same article oftener than once in four years." To be adopted, an amendment proposed by the legislature must receive not merely a majority of votes for it, but also a majority of all the votes cast in an election for members of the General Assembly. Since in this election many people refuse or neglect to vote on the proposal, they in effect vote against it. The result has been that the state of Illinois has several

¹ See *Hawke v. Smith*, 253 U. S. 221 (1920).

² See *Dillon v. Gloss*, 256 U. S. 368 (1921). The court said in this case that if there were no time limit, ratifications "must be within some reasonable time after the proposal," but did not define "reasonable."

³ Ogg and Ray, *op. cit.*, p. 650. See also J. W. Garner, "The Amendment of State Constitutions," *American Political Science Review*, I: 213-237, Feb., 1907.

times found itself in a strait jacket as far as the constitutional authorization of certain types of progressive legislation is concerned. In view of this situation and the fact that state supreme court judges are often more prone to void necessary legislation than the federal Supreme Court, it might well be asked: "What price state constitutional and governmental stability?"

An Evaluation of Amendments. If one employs the narrower definition of social progress as referring to the necessary extension of governmental activities and powers into new fields where a laissez faire policy would permit social evils to continue to exist, he finds that the constitutional amendments have been only to a slight extent responsible for the growth of national governmental powers and functions during the last three decades. Two exceptions stand out. The first was the Eighteenth Amendment (adopted in 1919), dealing with intoxicating liquors. Shortly after it went into effect this amendment was violently opposed as not a valid addition to the Constitution, but an unjustifiable invasion of the sphere of the states and of individuals. It was nevertheless upheld by the Supreme Court.¹ The repeal of the amendment through the ratification of the Twenty-first Amendment in 1933 made this contention a dead issue.

The second is the Sixteenth Amendment, which permits the federal taxation of incomes "from whatever source derived, without apportionment among the several states and without regard to any census or enumeration." This is a case of an amendment that was submitted (1909) to the states and ratified (1913) largely as a result of a Supreme Court decision² which by indirection denied to the national legislature the power to tax incomes except in proportion to population, a method of levy both difficult to administer and not in accordance with the ability-to-pay principle. With reference to the broader aspects of constitutional reform and social progress, the implications of the Sixteenth Amendment in connection with the redistribution of wealth are very great.

Legislative and Executive Welfare Aids. There is no doubt that constitutional reform through statutory elaboration or the passage of laws is a helpful and necessary instrument of social progress. First, they embrace all the various laws that have been

¹ National Prohibition Cases, 253 U. S. 350 (1920).

² *Pollack v. Farmer's Loan and Trust Co.*, 158 U. S. 601 (1895).

passed to implement or put into effect the chief provisions of the United States Constitution. Examples selected at random are federal statutes with respect to national elections, taxation, interstate commerce,¹ industry, banking, labor, agriculture, the Army, the Navy, national defense, and war.

Second, they involve such statutes designed to fill in the gaps left by the makers of the Constitution as those relating to the presidential succession (Act of January 19, 1886), and to the membership of the national House of Representatives.

Third, they comprise the structural "organic" acts, such as those setting up the ten federal executive departments, the inferior federal courts, and the regulatory bodies, like the Interstate Commerce Commission and the Securities and Exchange Commission.

Fourth, they include numerous statutes which may be thought of as mitigating the effects of other laws. An example is the Trade Agreement Act of 1934, renewed in 1937, which gives the President the power to make, without specific Senate approval, reciprocal or bargaining tariff agreements with foreign countries, providing, among other restrictions, that the new rates are not raised or lowered more than 50 per cent of the existing schedules.

Fifth, and finally, the legal aids to social progress contain among their most important elements all of those provisions which serve to project governmental controls farther and farther into the frontiers of social reform. Of this the great Social Security Act of 1935 probably affords the best illustration.

This statute illustrates the fact that in such controversial fields of human interest as social welfare there is frequently a greater culture lag between the law and the needs of the less privileged members of society than there is elsewhere. Another example of this may be cited: Under the English common law no employer could be held responsible for an injury to a workman if negligence on the part of the latter could be proved. When, after the lapse of centuries, it was realized that such misfortunes should be a legitimate charge upon industry rather than upon the laborer or the government, workmen's compensation laws were enacted by all the enlightened American states.

The Commerce Clause. In the earlier history of the United States the prevailing theories of individualism and laissez faire left not

¹ This is treated in some detail below.

only the protection of the working man but of the small employer to the common law and courts. These proved but weak barriers against the cutthroat competition, gentlemen's agreements, pools, rebates, and other practices of big business which are so familiar to the student of American history since 1870.

Prodded by an outraged public opinion, state legislatures, courts, and, somewhat later, administrative commissions grappled with these menaces to social welfare. But as transportation and industry developed and the evils afflicting large business enterprises crossed state lines more and more frequently, Congress found it necessary to enter the arena. It was armed with the power "to regulate commerce with foreign nations, and among the several states, and with the Indian tribes."¹ After beginning with laws checking state legislative interferences with the free flow of interstate commerce, in 1887 Congress set up the Interstate Commerce Commission. This was followed on July 2, 1890, by the Sherman Antitrust Act; in 1914 by the Clayton and the Federal Trade Commission laws; in 1935 by the Social Security Law; in 1938 by the Fair Labor Standards Act; and later by many others, some of which will be noted hereafter.

Despite some seeming setbacks to social progress caused by United States Supreme Court actions — such as the decision preventing the federal regulation of insurance companies, inasmuch as insurance contracts were not deemed to be articles of commerce,² and the decision in the Standard Oil Company Case³ that only *unreasonable* restraints of trade could be prohibited under the Sherman Act — the Court has extended the meaning of the word "commerce" almost as rapidly as the country has grown. According to Robert Phillips, commerce "has been construed to include the *carrier*, the *thing carried*, and the *shipper*. Insofar as they cross state lines they are all engaged in interstate or foreign commerce."⁴

The carriers "include ships, railroads, buses, trucks, airplanes, pipe lines, electrical transmission lines, telephone, telegraph, cable, express companies, Pullman service, radio,"⁵ and persons, together

¹ The Constitution of the United States, Article I, Section 8, Clause 3.

² *Paul v. Virginia*, 156 U. S. 1 (1895).

³ 221 U. S. 1 (1911).

⁴ Robert Phillips, *American Government and Its Problems*, Houghton Mifflin Company, The Riverside Press, Cambridge, Mass., 1937, p. 682.

⁵ *Ibid.*

with "all the incidents of transportation, the navigable waters, the right of way, the speed and safety of operations."¹ The things carried comprise "passengers, commodities, and ideas."² Shippers are all those who change the *place* of an article but not its *form*. The latter may be manufacturers, miners, or farmers whose activities are presumably reserved to the states. In the cases of *Hammer v. Dagenhart*, previously noted, *Carter v. Carter Coal Company* (Guffey Act Case),³ and *United States v. Butler* (AAA Case)⁴ manufacturing, mining, and farming were supposedly placed outside the pale of the commerce clause.

Before these decisions were rendered, however, the Supreme Court permitted the extension of Congressional power to the imposition of regulations⁵ (1) not merely to aid, foster, and protect interstate and foreign commerce, but to *prohibit* it; (2) to *bar* therefrom such "*noxious articles*" as lottery tickets, stolen goods, and kidnaped persons, and such other commodities as intoxicating liquors and convict-made goods forbidden entrance by the laws of the state of destination; (3) "to prescribe the rule by which commerce is governed"; (4) to regulate employer and employee relations in industries in which strikes, induced by unfair labor practices named in the National Labor Relations Act, tend to disturb or obstruct interstate commerce;⁶ (5) to regulate or prohibit intrastate activities which, if permitted, would injure or burden interstate commerce; (6) to regulate the movement of *all* manufactured articles in interstate commerce if *some* of the lot of which they are a part so move; (7) and finally, as previously noted, in opposition to the holding in *Hammer v. Dagenhart*, to prohibit the interstate shipment of goods produced for interstate commerce by employees whose wages and hours do not conform to certain legally prescribed standards.

In view of the above, it is apparent that the commerce clause in the hands of Congress and the Supreme Court — especially after 1937, for reasons to be noted hereafter — has proved a sturdy peg on which to hang much socially desirable national legislation.

¹ *Ibid.*

² *Ibid.*

³ 298 U. S. 238 (1936).

⁴ 297 U. S. 1 (1933).

⁵ Most of these are summarized and abundantly illustrated by cases in the opinion of Chief Justice Stone given in the leading Fair Labor Standards Case (*U. S. v. F. W. Derby Lumber Company*) noted above.

⁶ *National Labor Relations Board v. Jones and Laughlin Steel Corporation*, 301 U. S. 1, 38, 40.

The Treaty Power. All the important treaties made by the United States have affected the American governmental system. For example, the Louisiana Purchase brought into focus important constitutional questions relating to the acquisition of new territories and citizenship. With the first of these Thomas Jefferson was particularly concerned.

No provision of any treaty to which the United States was or is a party has ever been declared unconstitutional. This fact leads some authorities to believe that certain things of social value can be done by interstate agreements which, if authorized by statutes, would be deemed invalid by the Supreme Court.

The judicial history of the two migratory bird acts would seem to indicate that Congress can derive from a treaty, made by the President with the Senate's consent, an implied power which is not specifically granted to it in the Constitution. An act of the national legislature passed in 1913 forbade, except under strict regulations, the killing of migratory birds. This was correctly declared unconstitutional by two lower federal courts on the ground that the control of bird life is not one of the express powers the Constitution grants to Congress, nor can it reasonably be called the regulation of commerce.

In 1916 a treaty with Great Britain provided that the United States and Canada should each pass legislation to protect migratory birds. This Congress did in the law of 1918, which forbade the killing, capturing, or selling of the birds mentioned in the treaty except in accordance with regulations made by the Secretary of Agriculture. The state of Missouri, claiming that her reserved powers were invaded by the statute, brought action for an injunction to prevent a United States game warden from enforcing the law under the rules of the secretary of agriculture. Mr. Justice Holmes ruled that Missouri's claim was without merit, thereby upholding the act of 1918. In his opinion he said, in part:

It is obvious that there may be matters of the sharpest exigency for the national well-being that an act of Congress could not deal with, but that a treaty following such an act could, and it is not lightly to be assumed that, in matters requiring national action, "a power which must belong to and somewhere reside in every civilized government" is not to be found.¹

¹ *Missouri v. Holland*, 252 U. S. 416 (1920), reported in Cushman, *op. cit.*, pp. 144-147.

Executive Orders. Another helpful partner of statutory elaboration in the business of constitutional reform to promote social progress is the ordinance or executive order issued by the President and other administrators. In fact, executive orders are almost always necessary to implement or put into effect the enactments of a legislative body. Sometimes these regulations are substitutes for, as well as supplements to, laws. One may witness in this connection Executive Reorganization Plan Number One of President Roosevelt issued under the authority of the Reorganization Act of April 3, 1939. The salient feature of this order,¹ which took effect on June 26, 1939, is the creation of three federal agencies — the Federal Loan Agency, the Federal Security Agency, and the Federal Works Agency. For an indefinite time these will have to serve in place of the cabinet departments which were specifically forbidden by Congress.

A second illustration was afforded when, on January 7, 1941, the President by executive order created the Office of Production Management. He was then setting up but one of the many agencies belonging to the vast machinery of national defense which is almost entirely centralized in the President's office.²

Legislative Delegation and the New Deal. While the complex nature of modern problems makes impossible the inclusion in the formal statutes of all the rules, regulations, and procedures needed to enforce these laws, so that there are a necessarily large number of executive orders, the American doctrine of the separation of powers forbids Congress to delegate or give up its legislative powers to the executive branch of the government. Here the Supreme Court has the final word as to the dividing line between the nondelegation and the delegation of a legislative power.

There was no unlawful delegation, said the court in numerous cases, as long as the law passed by Congress set up a sufficiently clear standard to guide the executive officers in issuing their rules and regulations. Just how definite that standard had to be, the court did not explain.³

Before 1939 some of the New Deal measures fell afoul of this vague limitation and of previously laid down restrictions on the federal regulation of manufacturing, mining, and agriculture.

¹ See also Chap. XXXIX, Public Administration.

² See Chap. XXXIX, Public Administration, and Chap. XLI, Public Safety.

³ Robert E. Cushman, *The Supreme Court and the Constitution*, Public Affairs Pamphlet No. 7, New York, 1936, pp. 14-15.

Four outstanding cases were: (1) the *Panama Refining Company v. Ryan* (1935)¹ or the "Hot Oil Case," in which the President was forbidden to prevent the interstate shipment of "hot oil" — that produced or withdrawn from storage in violation of state laws; (2) *Schechter Poultry Corporation v. The United States* (1935),² in which all the "codes of fair competition" set up under the National Industrial Recovery Act were invalidated on the ground of delegation of legislative power to the President and the unconstitutional regulation of intrastate commerce; (3) *Carter v. Carter Coal Company* (1936), wherein the first Bituminous Coal Stabilization (Guffey) Act was declared unconstitutional because it placed the legislative power to fix maximum hours of labor and minimum wages in the joint hands of representatives of the miners and coal producers, and the labor provisions were said to constitute a use of the commerce power for a purpose falling within the reserved powers of the states — here, in particular, the regulation of mining; and (4) the case of *United States v. Butler* (1933), mentioned above, wherein the AAA was declared unconstitutional on the ground that the processing taxes levied under the law were designed to accomplish a purpose beyond the power of Congress and so reserved to the states — namely, the regulation of agriculture.

The last two cases have been overruled while some of the purposes of the measures invalidated in the other two are being accomplished in other ways. For example, the Connally Oil Control Act of February 22, 1935, which forbids the shipment of hot oil in interstate commerce, has not been challenged.

Grants-in-aid. When several decades ago Congress found itself barred from enacting social-welfare legislation either by the difficulty of the amending process or by the illiberality of the Supreme Court, it began to use the already old practice of granting sums of money to the states, frequently with a "fifty-fifty" matching requirement attached, to aid in the carrying-out of certain national policies. Since these important grants-in-aid usually involve the extension of federal control along with the national funds, they may be looked upon as a partial compensation for the shortcomings of usages, constitutional amendments, laws, treaties, and executive orders as instrumentalities of the general welfare.

¹ 293 U. S. 388.

² 295 U. S. 495. See also Chap. XL, The Administration of Justice.

Conclusion. Constitutional reform through statutory and executive aids must be relied upon to bring about social progress if the American Republic is to endure. However, regarding much of it the Supreme Court has the last word. Moreover, as in the case of all the other constitutional roads to progress discussed in this chapter, their value depends upon the observer's economic interests and social philosophy.

JUDICIAL CONSTITUTIONAL CHANGES

Judicial Review by the Supreme Court. The important role played by the United States Supreme Court will next be examined. To what extent has the practice of judicial review¹ by the Court, a power which is a unique² American contribution to the art of government, furthered constitutional reform and, with it, social progress? This question may be considered in retrospect from the point of view of the historian, and in prospect through the eyes of the student of social trends.

Growth and Basis of Judicial Review. The disallowance of legislation by the courts antedates the federal Constitution itself.³ Thus, in 1786 in the case of *Trevett v. Weeden*, a Rhode Island court declared unconstitutional a state law requiring creditors to accept as legal tender certain types of paper money.

Although judicial review was known through this and one or two other cases which had arisen in the state courts, and through the colonies' practice of referring to the British Crown for affirmation or rejection measures passed by their legislatures, in the famous Convention of 1787 it received little consideration from the founding fathers. They probably did not foresee its vast potentialities for good or ill. Probably only James Wilson and Alexander Hamilton envisaged some of the consequences of the exercise of the power to declare a statute unconstitutional.

In *Marbury v. Madison* (1803),⁴ the case in which a part of a national law authorizing the issuance of a mandamus was held

¹ This means a critical examination or reexamination of a law to determine whether or not it is constitutional.

² In England, where "legislative supremacy" as distinct from "judicial supremacy" exists, acts of Parliament are final in the sense that neither the Crown nor the High Courts can declare them invalid.

³ See C. O. Haines, *The American Doctrine of Judicial Supremacy*, rev. 2nd ed., University of California Press, Berkeley, 1932.

⁴ 1 Cranch 137.

unconstitutional, this being the first precedent of its kind, Chief Justice John Marshall asserted that an act of Congress or of a state legislature must be laid beside the written Constitution and be declared void if in conflict with that document. He believed that if this were not done it would be useless to regard the written fundamental law as superior and paramount.

In opposition to this generally held interpretation of the 1803 opinion Robert E. Cushman, an authority on the Supreme Court, states: "Marshall nowhere asserts the superiority of the court over Congress or the Executive, nor does he lay claim on the Court's behalf to any general power of supervision over the other two departments."¹ Cushman asserts that in the Dred Scott Case² the court under the leadership of Chief Justice Taney for the first time "takes on the task of determining whether Congress has exercised powers which the Constitution has not delegated to it. Congress must stay in its own Constitutional back yard and the Supreme Court, not Congress, is to determine whether it has done so."³

A further step in the growth of the power of the Supreme Court was the development toward the end of the nineteenth century of the doctrine of *due process of law*⁴ — a vague limitation on the powers of the national government as set forth in the Fifth Amendment⁵ and similarly on the powers of the states according to the Fourteenth Amendment⁶ — to decide whether Congress or a state has used a wrongful *method* in exercising an admittedly legal power. If, for example, in the exercise of its police power⁷ — to restrict individuals or the use of private property in the interest of health, morals, safety, or the general welfare — a state enacted a minimum-wage statute, it was now the assumed role of the

¹ Robert E. Cushman, "The Role of the Supreme Court in a Democratic Nation," No. 72 in Chap. XX, "The Courts and Public Policy," A. N. Christensen and E. M. Kirkpatrick, *The People, Politics, and the Politician*, Henry Holt and Company, Inc., New York, 1941, p. 564.

² 19 Howard 393.

³ Cushman, *op. cit.*, p. 565.

⁴ "Law in its regular course of administration through courts of justice," Campbell Black, *Black's Law Dictionary*, 2nd ed., West Publishing Company, St. Paul, 1910, p. 401.

⁵ "No person shall be deprived of life, liberty, or property without due process of law."

⁶ "Nor shall any State deprive any person of life, liberty, or property without due process of law."

⁷ See also Chap. XLI, Public Safety.

Supreme Court to balance each worker's "freedom of contract" against the social gains that might accrue from the minimum-wage law. If the latter did not overbalance the former, then the statute was not in accordance with due process because it "arbitrarily" restricted individual liberty. In fact this was the gist of a decision of June, 1936, in which the Supreme Court struck down a New York minimum-wage law.¹

Finally Cushman shows that eighteen years before this questionable minimum-wage decision, in the case of *Hammer v. Dagenhart* (1918), notable for several things, the Court had begun to judge the *purpose* by which a granted power, in this case taxation, was being exercised. "Thus the judicial camel has got himself pretty completely into the legislative tent."²

Throughout much of its history the Supreme Court majority has strongly denied that it has in effect been doing the work of Congress over again. On the contrary it has often asserted that it does not pass on the merits or wisdom of legislation, and that it sustains every reasonable presumption in favor of a law when the constitutionality thereof is attacked. In spite of Mr. Justice Roberts' pronouncement to this effect in the AAA case, contrary statements have from time to time come from dissenters like Mr. Justice Holmes.³ Mr. Justice (now Chief Justice) Stone, in the New York minimum-wage law case protested against the majority's basing their decision and opinion on their own "economic predilections."

Perhaps a valid conclusion to be derived from the above statements is this: "The real constitution draws its lifeblood not from the document but from the men who give the document its meaning."⁴ But one should not conclude that this is a crushing argument against judicial review. In fact, Cushman himself does not feel that the Supreme Court should be deprived of the power to declare a law unconstitutional. Instead he would have it "abdicate voluntarily its legislative and policy-determining functions and to adopt the wise tolerance toward legislative discretion which Mr. Justice Holmes preached and practiced."⁵

¹ *Moorehead v. New York ex rel. Tipaldo*, 298 U. S. 587.

² Cushman, *op. cit.*, p. 567.

³ *Baldwin v. Missouri*, 281 U. S. 586, 595 (1930).

⁴ Kenneth Culp Davis, "Revolution in the Supreme Court," *The Atlantic Monthly*, 156: 86.

⁵ Cushman, *op. cit.*, p. 576.

Although critics of the Supreme Court can show that there is no *specific* warrant for judicial review in the letter of the Constitution, it is not difficult for many to accept the Hamiltonian view that, while all three branches have an equal right to interpret the law, the Supreme Court is best fitted to say the final word — which some one authority must speak — that will bind the others. Since, unlike Congress, it has neither the “power of the purse” to appropriate funds, nor has it the “power of the sword” wielded by the Chief Executive, the Court is the safest organ in which this authority can be vested. Moreover, it early took the view that under the theory of the separation of powers it has no legal power to coerce either of the other branches of government. In fact, it always evades making decisions on political questions arising in connection with either the President or Congress. Thus the Court will refuse to issue an injunction or a mandamus against the Chief Executive or the national legislature. These considerations, together with the facts that the Supreme Court decides only “test” cases that are submitted to it and that its members are less likely to be influenced by momentary passion than are the members of the other two coordinate branches of the Federal government, all constitute valid reasons for retaining judicial review.

Criticisms of Judicial Review. The decapitation by the judicial axe since 1857 of approximately 90 acts of Congress¹ and about 300 laws of the states has from time to time called forth some severe censure of the Supreme Court. For example, Thomas Jefferson called it a “judicial oligarchy.” Abraham Lincoln denounced the decision of Chief Justice Taney in the Dred Scott Case (1857) on the ground that its repeal of the Missouri Compromise in effect admitted slavery into the free territories. President Theodore Roosevelt advocated the recall of judicial opinions by a popular vote. Humanitarians viewed with regret the child-labor and minimum-wage decisions referred to above and openly stated that the latter left a “no man’s land” into which no government could enter to protect women from sweatshop conditions.² A few students of the law doubted with Mr. Justice Black if private corporations should be afforded as “artificial persons” the protection of the due process clause of the Fourteenth Amendment. For when applied

¹ See Franklin D. Roosevelt, “The Fight Goes On,” *Collier's*, 108: 13, Sept. 13, 1941.

² *Ibid.*, p. 4.

to a corporation this legal incantation can refer only to property, as its life and liberty are not the same as the life and liberty of the natural persons belonging to it.¹

Loud was the outcry when the judicial lightning struck down not only the NIRA, the AAA, and the first Guffey Act, as previously noted, but the first Frazier-Lemke Farm Mortgage Act² and the Railroad Retirement Act.³ Shortly after the Schechter decision had demolished the NIRA, which curiously enough embodied the very principles of self-regulation proposed by the United States Chamber of Commerce in 1931, President Franklin D. Roosevelt in a press conference stated that the Supreme Court's view of the Constitution was that of "horse and buggy days," and that a fundamental law so interpreted had been outmoded by social and economic events.

The 1937 Roosevelt Court Reorganization Plan. Concerning the aftermath of the criticisms of the Court, Dr. Charles A. Beard has written:

The growing tension over the federal judiciary broke into open conflict on February 5, 1937, when President Roosevelt submitted to Congress a plan for the reorganization of the whole judicial system including an authorization to appoint new justices [up to six] to the Supreme Court when justices after the age of seventy fail to resign after six months.⁴

There were other elements of the plan which stimulated some legislation of a reform nature. Thus the law of August 25, 1937, . . . authorized direct appeals from federal district courts to the Supreme Court in cases involving the constitutionality of congressional acts. The law also required three judges to pass on a petition to a district court for an injunction against the enforcement of a congressional act. By a 1939 act, Congress created the Administrative office of the United States Supreme Court. This office was to supervise the assignment of lower court judges and otherwise to assist the Supreme Court in carrying on its business.⁵

More generous retirement provisions were also adopted.

These inferior court measures were all worth while, yet following a bitter controversy the bill embodying the most spectacular of the

¹ For a historical note about this matter see John N. Andrews and Carl A. Marsden, *Tomorrow in the Making*, McGraw-Hill Book Company, Inc., New York, 1939, p. 351.

² *Louisville Joint Stock Bank Company v. Radford*, 295 U. S. 555 (1935).

³ 295 U. S. 330 (1935).

⁴ Charles A. Beard, *American Government and Politics*, 8th ed., The Macmillan Company, New York, 1939, pp. 191-192.

⁵ Erik McKinley Eriksson, *The Supreme Court and the New Deal*, Rosemead Review Press, Rosemead, California, 1940, p. 5.

proposals was defeated after being reported unfavorably by the Senate Judiciary Committee.

Compensatory Proposals. In the course of the debate practically every suggestion that has been made to reform the Supreme Court was brought forward. Professor Max Lerner has divided these into three groups — the *remedial* (Nos. 1, 2, 3 below), the *curbing* (Nos. 4, 5, 6, 7), and the *amendatory* (Nos. 7, 8, 9).¹

Proposition 1: Improve by better presidential appointments the personnel of the Supreme Court. Whether or not this is accomplished at any given time is largely a matter of an estimate based on one's information and social philosophy. Perhaps Tables LXXVII and LXXVIII will be of assistance in the study of this proposition.

Proposition 2: Legally require the court to render *advisory opinions* on laws before they go into effect, or before a test case arises. This would have the merit of preventing uncertainties and losses. But it would encroach on the powers of the Attorney General, overwhelm the judges with work, and run counter to a tradition of the court dating back to George Washington's presidency.

Proposition 3: Persuade the Court to give Congress and state legislatures the benefit of all reasonable doubts as to the constitutionality of laws. As noted elsewhere, the Supreme Court has always claimed to adhere to this principle, but has sometimes failed to follow it. At present there is evidence to show that the overwhelming majority of judges have adopted the viewpoint of the late Justices Holmes and Brandeis as to this matter. Thus in his Fair Labor Standards opinion Chief Justice Stone said: "The motive and purpose of a regulation of interstate commerce are matters for the legislative judgment upon the exercise of which the Constitution places no restriction and over which the Courts are given no control."²

Proposition 4: "Pack" the court by legally increasing the number of judges and filling the new positions. There can be no legal objection to this, since the Constitution vests in Congress and the President the power to determine by law the number of Supreme Court judges. It has been done a number of times for what seemed

¹ Max Lerner, "The Fate of the Supreme Court," in Christensen and Kirkpatrick, *op. cit.*, pp. 587-591.

² *United States Supreme Court Advance Opinions*, p. 401.

TABLE LXXVII¹

THE UNITED STATES SUPREME COURT, 1933

<i>Name of Justice</i>	<i>Office</i>	<i>Nominating President</i>	<i>Nomination Date</i>	<i>Senate Approval</i>	<i>Assumption of Office</i>	<i>Retirement</i>	<i>Decease</i>	<i>Predecessor</i>	<i>Successor</i>	<i>Office, or Work, When Appointed</i>
Charles E. Hughes	Chief Justice	Herbert Hoover	Feb. 3, 1930	Feb. 13, 1930	Feb. 24, 1930	July 1, 1941		William H. Taft	Harlan F. Stone	Judge of Permanent Court of International Justice, 1928-1930.
Willis Van Devanter	Associate Justice	William H. Taft	Dec. 12, 1910*	Dec. 15, 1910*	Jan. 3, 1911	June 2, 1937	Feb. 8, 1941	Edward D. White†	Hugo L. Black	United States Circuit Judge, 8th Judicial Circuit, 1903-1910.
James C. McReynolds	Associate Justice	Woodrow Wilson	Aug. 19, 1914*	Aug. 29, 1914	Oct. 12, 1914	Feb. 1, 1941		Horace H. Lurton	James F. Byrnes	United States Attorney General, 1913-1914.
Louis D. Brandeis	Associate Justice	Woodrow Wilson	Jan. 28, 1916	June 1, 1916	June 5, 1916	Feb. 13, 1939	Oct. 5, 1941	Joseph R. Lamar	William O. Douglas	Member of law firm of Brandeis, Dunbar, & Nutter, Boston, Mass., 1897-1916.
George Sutherland	Associate Justice	Warren G. Harding	Sept. 5, 1922	Sept. 5, 1922	Oct. 2, 1922	Jan. 18, 1938		John H. Clarke	Stanley F. Reed	General law practice; Senator from Utah, 1905-1917.
Pierce Butler	Associate Justice	Warren G. Harding	Nov. 23, 1922	Dec. 21, 1922	Jan. 2, 1923	†	Nov. 16, 1939	William R. Day	Frank Murphy	General law practice, St. Paul, Minn., 1888-1923.
Harlan F. Stone	Associate Justice	Calvin Coolidge	Jan. 5, 1925	Feb. 5, 1925	Mar. 2, 1925	§		Joseph McKenna	Robert H. Jackson||	United States Attorney General, 1924-1925.
Owen J. Roberts	Associate Justice	Herbert Hoover	May 9, 1930	May 20, 1930	June 2, 1930	¶		Edward T. Sanford		General law practice; Corporation director, etc., Philadelphia, Pa.
Benjamin N. Cardozo	Associate Justice	Herbert Hoover	Feb. 15, 1932	Feb. 24, 1932	Mar. 14, 1932	†	July 9, 1938	Oliver W. Holmes	Felix Frankfurter	Chief Justice of the New York Court of Appeals, 1927-1932.

* The source for these data is *The Congressional Record*.

† Willis Van Devanter filled the vacancy as Associate Justice which occurred when Edward D. White was made Chief Justice.

‡ Deceased while in office.

§ Became Chief Justice July 3, 1941.

|| Successor as Associate Justice.

¶ In office October, 1941.

¹ Compiled principally from the *Congressional Directory* and *Congressional Record* by Joseph G. Ballinger, Assistant Librarian, Herzl Junior College, Chicago.

TABLE LXXXVIII¹

THE UNITED STATES SUPREME COURT, OCTOBER, 1941

<i>Name of Justice</i>	<i>Office</i>	<i>Nominating President</i>	<i>Nomination Date</i>	<i>Senate Approval</i>	<i>Assumption of Office</i>	<i>Predecessor</i>	<i>Office, or Work, When Appointed</i>
Harlan F. Stone	Chief Justice	Franklin D. Roosevelt	June 12, 1941	June 27, 1941	July 3, 1941	Charles E. Hughes*	Associate Justice, United States Supreme Court, 1925-1941.
Owen J. Roberts	Associate Justice	Herbert Hoover	May 9, 1930	May 20, 1930	June 2, 1930	Edward T. Sanford	General law practice; Corporation director, etc., Philadelphia, Pa.
Hugo L. Black	Associate Justice	Franklin D. Roosevelt	Aug. 12, 1937	Aug. 17, 1937	Oct. 4, 1937	Willis Van Devanter	Senator from Alabama, 1927-1937.
Stanley F. Reed	Associate Justice	Franklin D. Roosevelt	Jan. 15, 1938	Jan. 25, 1938	Jan. 31, 1938	George Sutherland	United States Solicitor General, 1935-1938.
Felix Frankfurter	Associate Justice	Franklin D. Roosevelt	Jan. 5, 1939	Jan. 17, 1939	Jan. 30, 1939	Benjamin N. Cardozo	Professor of Law, Harvard, 1914-1939.
William O. Douglas	Associate Justice	Franklin D. Roosevelt	Mar. 20, 1939	Apr. 4, 1939	Apr. 17, 1939	Louis D. Brandeis	Professor of Law, Yale, 1928-1939; Chairman, Securities and Exchange Commission, 1937-1939.
Frank Murphy	Associate Justice	Franklin D. Roosevelt	Jan. 4, 1940	Jan. 16, 1940	Feb. 5, 1940	Pierce Butler	United States Attorney General, 1939-1940.
James F. Byrnes	Associate Justice	Franklin D. Roosevelt	June 12, 1941	June 12, 1941	July 8, 1941	James G. McReynolds	Senator from South Carolina, 1931-1941.
Robert H. Jackson	Associate Justice	Franklin D. Roosevelt	June 12, 1941	July 7, 1941	July 11, 1941	Harlan F. Stone†	United States Attorney General, 1940-1941.

* Predecessor as Chief Justice.

† Robert H. Jackson filled the vacancy as Associate Justice which occurred when Harlan F. Stone was made Chief Justice.

Compiled principally from the *Congressional Directory* and *Congressional Record* by Joseph G. Ballinger, Assistant Librarian, Herzl Junior College, Chicago.

to be political reasons. But public opinion might be alienated, and there is no assurance that the new justices will in the future sustain the acts of the appointing President.¹

Proposition 5: Provide by law or amendment that no act of Congress or of the state legislatures shall be invalidated except by an extraordinary majority (6 to 3, 7 to 2, 8 to 1, or 9 to 0). This proposal might prevent some invalidation of statutes about which the Court is in doubt; otherwise it would accomplish little.

Proposition 6: Stipulate by law or amendment that decisions of the Supreme Court may be overridden by a simple majority or a two-thirds vote of Congress. This, like the next suggestion, would make Congress a judge of its own powers and presumably the guardian of popular rights, as in Great Britain. Undoubtedly the Supreme Court would lose prestige whenever overruled by Congress.

Proposition 7: Adopt a constitutional amendment which would take away from the Supreme Court and lower federal courts the power to declare acts of Congress unconstitutional. This would transform the American Constitutional system in many unforeseeable ways.

Proposition 8: Make the amending process easier. There have been several suggestions in this field. Among them are: Congressional approval of amendments by a majority rather than by a two-thirds vote; the alternative proposal of amendments by legislatures and by the voters of any ten states; and ratification by a popular vote in a majority of states. This is essentially the elder La Follette's plan of 1912. Other more or less similar ideas have been expressed. Marshall E. Dimock makes the unique proposal that a Constitutional convention be called "at stated intervals, say every twenty years."² This would be a streamlined version of Thomas Jefferson's revolution every other decade.

Proposition 9: Enlarge the powers of Congress by Constitutional amendments. Most people would agree that the national government needs more powers to grapple effectively with the vast social and economic problems of the twentieth century. But what amendments should be adopted for this purpose? A large number

¹ See Morris L. Ernst, *The Ultimate Power*, Doubleday, Doran & Company, Inc., New York, 1937, pp. 315-317.

² Dimock, *op. cit.*, p. 209.

of these have been suggested. They deal with such fields — to select some at random — as taxation, interstate commerce, agriculture, industry, labor, due process, minimum wages, child labor, the conscription of wealth in war time, and the general welfare clause of the Constitution.¹ Statutes enacted under the new amendments would be subject to judicial review by the Supreme Court, providing, of course, it were not constitutionally deprived of that power.

Justice Holmes's Testimony. In connection with some of the alternatives discussed above, Justice Oliver Wendell Holmes once wrote:

I do not think the United States would come to an end if we lost our power to declare an act of Congress void. I do think the Union would be imperiled if we could not make that declaration as to the laws of the several states. For one in my place sees how often a local policy prevails with those who are not trained to national views and how often action is taken that the commerce clause was meant to end.²

As usual the "Great Liberal" spoke with clarity and vision.

The 1937 Supreme Court Revolution. Events in the Supreme Court itself rendered the adoption of any of these suggestions unnecessary. In April, 1937, conveniently forgetting previous rulings that manufacturing was supposed to be the sole concern of the states (see the child-labor case above), the court ruled³ that a labor dispute in the plant of a company buying and selling in interstate commerce (here the Jones-Laughlin Steel Company) may be settled according to the provisions of the National Labor Relations Act, which is by that token constitutional. In May it upheld the taxing provisions of the Social Security Act.⁴ In reversing the case of *McCulloch v. Maryland* of 1819⁵ and of *Collector v. Day* of 1871,⁶ the Supreme Court almost exultingly repudiated the doctrine of *stare decisis*⁷ in connection with income taxation, by ruling that the salaries of all state and local officials are taxable

¹ See Ogg and Ray, *op. cit.*, p. 61; also Ernst, *op. cit.*, pp. 318-321.

² Quoted by H. L. McBain, *The Living Constitution*, The Macmillan Company, New York, 1934, p. 247.

³ 301 U. S. 1.

⁴ 201 U. S. 548.

⁵ 4 Wheaton 316.

⁶ 11 Wallace 113.

⁷ "To stand by decided cases."

by the national government.¹ On May 5, 1937, the Court overruled² the questionable New York minimum wage decision, this time holding that the more or less illusory freedom of an individual to bargain with a corporation should be supplemented or even replaced by the protection of the weaker members of society.

More Recent Opinions. In the *Socony-Vacuum Oil Company Case* (1939),³ the Supreme Court declared that the Sherman Antitrust Act prohibits members of any industry from making agreements which in any way control or influence prices, even though they are reasonable and competition is not stifled. In the *Apex Case*⁴ the majority held that the antitrust laws cannot be used to prevent a union's interference with interstate commerce by seizure of a factory, unless the union's act substantially affects the market price of the commodity manufactured there. This holding, which set aside a verdict for \$712,000 triple damages under the Sherman Act originally awarded to the Apex Hosiery Company for losses sustained in a sit-down strike, means, in effect, that employers cannot successfully sue unions in a federal court (the state courts are still open) for damages resulting from strikes.

On February 3, 1941, in the *Hutcheson Case*,⁵ the majority opinion of Mr. Justice Frankfurter voided an indictment against certain labor unions. The charge was illegal conspiracy to restrain trade and commerce under the Sherman Act. It was held that the Clayton Act of 1914 and the Norris La Guardia Act of 1932 removed the fetters of the Sherman law upon union activities.

This decision, in conjunction with two earlier decisions of April, 1940,⁶ which declared invalid an Alabama statute and a California municipal ordinance prohibiting picketing, has led some observers to speculate whether or not the Court is now favoring labor, just as it was partial to capital before 1937.

By June 8, 1941 the Court had given the Federal government more power to regulate navigable streams and to control in some degree state primaries as well as general elections; had adjudged

¹ *Helvering v. Gerhardt*, 304 U. S. 405 (1938); also *Graves v. O'Keefe*, 306 U. S. 466 (1939).

² *West Coast Hotel Company v. Parrish*, 300 U. S. 379.

³ *United States Supreme Court Advance Opinions*, Volume 84, p. 760 (1940).

⁴ *Ibid.*, p. 913.

⁵ Reported in the *Congressional Digest*, 20: 266-269.

⁶ *Davis, op. cit.*, p. 95.

the refusal of a company to hire employees because of union affiliations an unfair labor practice; had given a labor union the power to picket a business establishment even though members of the union were not employed there;¹ and had voided a California ("anti-Okie") law which prohibited any one from assisting non-resident indigent persons to come into the state. In his majority opinion — his first since taking office on July 8, 1941² — Justice James Byrnes stated that the law "imposes an unconstitutional burden upon interstate commerce." In a concurring opinion Justice Robert Jackson said that the legislation violated the provision of the Fourteenth Amendment stating that: "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States."³

On October 13, 1941, in a case⁴ involving the Alley Dwelling Authority for the District of Columbia, the United States Supreme Court upheld the constitutionality of public-housing legislation. Slum clearance and slum reclamation were held to be proper governmental functions in the exercise of which the power of *eminent domain* to take private property for public use with just compensation could be applied. This decision will do much to remove uncertainties and promote progress in public housing.

The Supreme Court and the Popular Will. The extent of the influence on the Supreme Court of the Reorganization Fight of 1937 is a matter which is difficult to estimate.⁵ Suffice it to say that practically all the decisions of the Supreme Court since April, 1937, exemplify what Justice Felix Frankfurter (then professor of law at Harvard University) wrote in 1930: "By the very nature of its place in the American scheme of government the Supreme Court is in the stream of public affairs."⁶ The fact of the matter is that,

¹ All the above were reported in *Time*, Vol. XXXVII, No. 23, p. 19, June 9, 1941.

² See Table LXXVIII.

³ This and the majority opinion are referred to in the *Chicago Daily Tribune* of Nov. 25, 1941. A concurring opinion arrives at the same decision as that of the majority by a different course of legal reasoning.

⁴ Reported in *The American City*, Vol. LVI, No. ii, p. 59, Nov., 1941.

⁵ For two somewhat different views see Franklin D. Roosevelt, "The Fight Goes On — The Constitution Prevails," *Collier's*, Vol. 108, No. 12, pp. 16-17, 38, 39, and Eriksson, *op. cit.*, pp. 200-202. In his fireside chat of June 24, 1938 the President referred to the episode as "a lost battle which won the war." In fact the pro-New Deal trend of 1937 began before the first Justice (Van Devanter) left the Court on June 2, 1937 (see Table LXXVII).

⁶ Felix Frankfurter, "United States Supreme Court Moulding the Constitution," *Current History*, 32: 236, May, 1930.

while the justices of that august body make their decisions in accordance with their heritage, training, experience, and general social philosophy, ultimately they must follow the popular will. In fact, an outright and long-standing defiance of the two coordinate branches of government, especially if Congress and the President were supported by an overwhelming public opinion, would ultimately render the Supreme Court impotent and an object of mild derision.

CONSTITUTIONAL CHANGES AND NATIONAL CRISES

Emergency Government. The events of the next few years will teach Americans much concerning the extent to which their living federal Constitution is or should be altered in crisis times. To be sure, there are certain precedents which may be profitably studied.

One of these was President Lincoln's suspension of the writ of habeas corpus by the order of April 27, 1861 and the proclamation of September 24, 1862. This action was validated by Congress in the suspension of Habeas Corpus Act of March 3, 1863, but held unconstitutional by the Supreme Court in *Ex Parte Merryman*.¹

In more recent times, during the great bank crisis of 1933 President Roosevelt based his bank-holiday measure on the trading with the Enemy Act of October 6, 1917. This statute had given President Wilson power in the war emergency of 1917 to withdraw gold from circulation and outlaw gold hoarding. By the emergency Banking Act of March 9, 1933 President Roosevelt was granted the power to declare a national emergency. In the Agricultural Adjustment Act and the NIRA, Congress also asserted that emergencies existed.²

Still more recent examples of emergency pronouncements were President Roosevelt's proclamations of a limited national emergency on September 8, 1939, and of an unlimited national emergency on May 27, 1941. Contrary to the popular belief, none of these official acts brought into existence any new powers.

In 1934 the Supreme Court, in affirming the doctrine of two previous decisions, said: "Emergency does not create power, nor increase granted power to remove or diminish restrictions imposed

¹ Taney's Reporter 246.

² Jane Perry Clark, "Emergencies and the Law," *Political Science Quarterly*, 29: 268-283, June, 1934.

upon power granted or reserved.”¹ But an emergency may require the exercise of powers long unused or necessitate new applications of those powers already existing. A good example is immediately forthcoming. With the whole world a battlefield, who can anticipate how and to what extent the President of the United States will use his vast powers as Commander-in-chief of the Army and Navy?

Liberty under the Constitution. In an address delivered in Washington on September 17, 1937, on the 150th anniversary of the signing of the Constitution, President Franklin D. Roosevelt said:

I believe that democratic government in this country can do all the things which common-sense people, seeing the picture as a whole, have a right to expect. I believe that these things can be done under the Constitution, yes under the Constitution, without the surrender of a single one of the civil and religious liberties it was intended to safeguard.²

In the days that are to come, while American industries, materials, and men are engaged in an antitotalitarian war program, will Congress, the President, and the Supreme Court so interpret and implement the Constitution as to “secure the blessings of liberty to ourselves and our posterity?” Only the future can answer this question.

TERMS TO BE UNDERSTOOD

culture lag	mandamus
delegation of power	opinion, advisory
due process of law	opinion, concurring
eminent domain	opinion, majority
extralegal matter	“packing”
executive order	police power
grant-in-aid	political question
constitution, flexible	“power of the purse”
constitution, rigid	“power of the sword”
habeas corpus	quorum
“hot oil”	recall of judicial decisions
implement	social progress
injunction	<i>stare decisis</i>
judicial review	usage

¹ *Home Building and Loan Association v. Blaisdell*, 54 Sup. Ct., Rep. 231 (1934). Also in *re Debs*, 158 U. S. 564 (1895), and *Wilson v. New*, 243 U. S. 332 (1917).

² Quoted in Paul W. Paustian and J. John Oppenheimer, *Problems of Modern Society*, McGraw-Hill Book Company, Inc., New York, 1938, p. 371.

QUESTIONS FOR DISCUSSION

1. Explain the meaning of the term "culture lag" and apply it to constitutional and social reforms.
2. How would you change, if at all, the process of amending the Constitution of the United States?
3. How valuable, as aids to social progress, have national Constitutional amendments been?
4. Study the process of amending the constitution of your state and evaluate it as an instrument of general welfare.
5. How does your state rank as to the legal protection it affords the weaker members of society?
6. How does the "broad" constitution differ from the written document?
7. How do grants-in-aid increase the powers of the national government?
8. Explain how the national government could enlarge its domestic powers through treaties.
9. On the basis of what legal theory is the Supreme Court opposed to the delegation of legislative power?
10. Explain the meaning of Woodrow Wilson's statement: "The Supreme Court is a constitutional convention in continuous session."
11. In 1907, while governor of New York, Charles E. Hughes said: "The Constitution is what the judges say it is." What important truth does this statement embody?
12. Show how the commerce power has been used to keep the national Constitution abreast of technical and social changes.
13. Some states ask their judges to give advisory opinions. Should Congress require them of Supreme Court justices?
14. Is there a necessity for "curbing" the Supreme Court? If so, what are the best methods of doing it?
15. Discuss some possible constitutional amendments to enlarge the powers of the Federal government.
16. What were the seeming effects on the Supreme Court of President Roosevelt's Reorganization Plan of 1937?
17. Show by using Table LXXVIII the probable future trend of United States Supreme Court decisions.
18. How was the *Hammer v. Dagenhart* decision overruled in the National Labor Relations Act and Fair Labor Standards Act cases?
19. Do you believe with Justice Frankfurter that the United States Supreme Court "is in the stream of public affairs"?
20. What are some of the possible national defense and wartime measures of Congress and of the President which may "strain the Constitution"?

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CHAPTER XLV

PLANNING

THE MEANING OF PLANNING

Nearly a decade ago President Hoover's Research Committee on Recent Social Trends warned that this nation could have no assurance against revolution unless it coordinated its governmental, economic, scientific, and educational forces by some form of long-range, integrated national planning. Though the dire need for planning has been stressed over a period of many years, we have continuing evidence of a disinclination to take social planning seriously. President Roosevelt remarked in 1934: "I don't see why there is not more enthusiasm for planning, except that there is nothing spectacular about it. . . . We are very apt to favor the panaceas, suggested legislation which, it is said, will cure all our troubles in thirty days. We are lazy. We don't like to think ahead, but we have to look ahead."¹ Some believe that mere drifting will lead to eventual readjustment. Others are indignant about the idea of planning, firmly holding to the conviction that any encroachment on their individual activities is a danger to our democratic way of life; that planning means totalitarianism and dictatorship; that planning would precipitate the breakdown of private enterprise; or that nothing can be planned in a democratic society — that democratic planning is a contradiction in terms.

Yet an examination of the haphazard, relatively uncontrolled changes in our social structure during the last century and a half with the resulting waste, confusion, and problems clearly indicates the need for planning. In our complex society it may well be that planning nothing will eventually be overcompensated by planning everything.

What Is Planning? We have all been admonished to plan for a rainy day. All of us plan to some degree for tomorrow, for the

¹ From an impromptu speech delivered in Washington on April 24, 1934, quoted in *Survey of Contemporary Sociology*, ed. by Henry Pratt Fairchild, Thomas Nelson & Sons, New York, 1934, pp. 716-717.

future. At some time, in some way, we plan our personal and household expenditure, our education, and even our amusements. A great deal of planning is inevitable in business. Raw materials must be acquired, machinery assembled, labor hired, production managed, sales campaigns outlined, deliveries scheduled, and overall coordination and supervision exercised if the enterprise is to prosper. Although every modern businessman would immediately recognize the need for this type of planning in his own business, many would question its indispensability in the larger affairs of government and society. The planning with which this chapter deals is an extension of the rationality we prize so highly in our personal affairs to more comprehensive undertakings which promote the general well-being, the health, the security, and the welfare of an entire society. A "plan" in the abstract "suggests some form of organization which will meet certain definite needs and solve certain definite problems. It suggests the completeness of a conception, within which the various elements which comprise it are in organic relation to one another, and to the whole."¹ Charles E. Merriam, of the National Resources Planning Board, defined planning as

... an organized effort to utilize social intelligence in the determination of national policies. Planning is based upon fundamental facts regarding resources, carefully assembled and thoroughly analyzed; upon a look around at the various factors which must be brought together in order to avoid clashing of policies or lack of unity in general direction; upon a look forward as well as a look around and a look backward. Considering our resources and trends as carefully as possible, and considering the emerging problems, planners look forward to the determination of long-time policies.²

There is no simple, foolproof formula for planning. It cannot be regarded as a set of rules to be carried over from one situation to another but must be based upon comprehensive knowledge of changing conditions and situations. The applicability of a plan which meets today's requirements may be extended into future years only insofar as it is possible successfully to interpret and predict future trends. Though present-day social and scientific knowl-

¹ *Urban Planning and Land Policies*, Vol. II of the Supplementary Report of the Urbanism Committee to the National Resources Committee, U. S. Government Printing Office, Washington, D. C., 1939, p. 81.

² "Planning in a Democracy," *American Planning and Civic Annual*, 1940, American Society of Planning Officials, Chicago, 1941, p. 5.

edge enables planners to formulate a more exact appraisal of future conditions and needs than ever before, yet new inventions, new ways and standards of living, new social forces, will upset the best laid plans. Plans must be dynamic; they must not only stimulate change but must be capable of change in themselves.

Public planning is not a recent innovation but has figured in various forms from the very beginning of our national life. The Constitution is an excellent example of large-scale planning in this country, containing, in addition to its framework for a democratic form of government, special plans concerning tariffs, currency, interstate commerce, and international relations. As early as 1791, Alexander Hamilton in his *Report on Manufactures* presented a careful consideration of the national problems of economics and government and suggested policies to be followed. Hamilton's plan may be matched by Albert Gallatin's report as President Jefferson's Secretary of the Treasury, suggesting a program of internal improvements. Tariffs and internal improvements were prominent in Henry Clay's famous "American System" developed in 1820, and the tariff policy of this country in succeeding years was a kind of planning, even though it was not always intelligent. The American homestead policy (1862) showed similar evidence of planning for public welfare. Also notable in early national planning was the policy of public education which rested largely on the extensive grants of public land for school and college purposes.

After the Civil War it began to be evident that large business enterprises were not always conducted in the public interest. Government intervention expressed itself in the establishment of the Interstate Commerce Commission in 1887, and the passage of the Sherman Antitrust Act in 1890. The organization of the Federal Trade Commission, followed by a series of similar national and state legislation, had the same general purpose.

In 1908 President Theodore Roosevelt gave impetus to the conservation program when he appointed a commission to make an inventory of the natural resources of the country. The results of this commission's findings were published in three volumes, which are considered the first authentic inventory of the natural resources of our country. It was very evident that, if the movement was to make any progress, a nation-wide program should be inaugurated. In 1909 the National Conservation Association was organized.

This organization was to act as a clearinghouse for organizations doing related work, and to foster and promote the formation of similar groups among the several states.

During the First World War our attention was centered on the mobilization of all our resources under the stimulus of the war objective. Plans for this mobilization of resources were directed by such governmental agencies as the War Industries Board, the War Trade Board, the Shipping Board, the War Labor Board, the Food Administration, the Fuel Administration, and the Railroad Administration, with their various subsidiaries. These war-time controls were for the most part discontinued after the armistice, but the economic turmoil of the postwar period called attention to continuing planning problems.

The American Engineering Council made a report on *Waste in Industry* in 1921, which stimulated attacks on waste, demands for standardization, simplification, research in productive efficiency, and long-time plans for stabilization in industry. This was followed by developments in planning by the Department of Commerce. These aimed at an increase of profits through improved methods of management and greater markets. Later, plans for public work expenditures to be made over a period of years in accordance with fluctuations in the business cycle were developed by Senator Wagner and President Hoover and resulted in the organization of the Federal Employment Stabilization Board.¹ The information gathered by this board facilitated the work of construction undertaken on a large scale by the Public Works Administration in 1933.

Within the last twenty-five years planning facilities have undergone a tremendous growth. Over a thousand cities have planning agencies; one-quarter of our 3000 counties have planning boards; and most of the states have established state and regional planning agencies. Within the last decade, the United States government has developed large-scale enterprises which deal with planning in agriculture; in employment, labor and industry; in land, water, mineral, and energy uses; in public works; for finance and loans; for social security, old age pensions, and relief; and for education and scientific studies. Later this chapter will discuss in greater detail some of the outstanding governmental planning efforts which

¹ "Planning in a Democracy," *American Planning and Civic Annual*, 1940, American Society of Planning Officials, Chicago, 1941, p. 175.

have been attempted in the city, county, state, and region. These efforts have just begun, and despite differences of opinion as to their policy and administration, there is general agreement that we are beginning to deal positively and often successfully with our national resources, material and human.

Levels of Governmental Planning. Levels of governmental planning are frequently classified in accordance with the scope of area covered by the plan, that is, local or city, county, regional, state, and national. Such territorial and political classification is not wholly adequate, since localities and levels of government are interrelated and interdependent. The interests of city planning are tied up with those of the county and region. These local agencies in turn can avoid duplication and waste only through cooperation with state planning agencies, while the states are all directly concerned with the large-scale conservation, economic, and social measures of national planning.

City Planning. City planning aims to study the major factors affecting our cities today. It aims to discover and analyze the problems of our changing society, and to foresee and direct the future needs of the community. City planning, like planning in general, must consider all phases of urban life, physical, industrial, commercial, social, and psychological.

The idea of urban planning is not new. Many ancient and Oriental cities were planned to afford the best means of defense. (The ancient plan generally called for a great wall; a royal quarter with palaces, temples, and gardens; and a lower city, which contained the homes of the masses and the market places.) Neither was planning, as related to design, strange to medieval towns, though these were usually built more irregularly than the ancient cities. The increase of population and the development of commerce and industry in many cities during the Middle Ages forced the population to spread out beyond the limits of the walls, which were frequently torn down and rebuilt to include outlying areas.

The plans of many cities in the United States were influenced by plans started by the Anglo-Saxon pioneers in New England. Neat villages, towns, and cities with functional layouts were designed for a maximum growth in relation to the countryside and farms. In the early part of the nineteenth century Major L'Enfant came over from France to make a plan for our national capital at Wash-

ington. But these instances of planning, commendable in themselves, indicate only slightly the scope of organized planning as we understand it today.

At the beginning of the present century there was a revival of city planning on a more extensive and scientific scale. The *Chicago Plan*, the first important contemporary development in organized city planning, was worked out by Daniel Burnham for the World's Fair of 1893.¹

Perhaps the largest survey ever undertaken was that made of New York City and its environs after the First World War. A comprehensive report was published containing recommendations for the reconstruction of this great metropolis.² Other municipalities have widely imitated the Chicago and New York plans. Today there are over a thousand cities with planning commissions, each one of which has its varying problems, aims, and achievements.

Reasons for City Planning. The increasing complexity of modern life has changed the earlier conceptions of the duties of planning, which were largely limited to land use, design, and other physical factors. Though planning today definitely includes those material and visible aspects which enable the community to control and best develop its land and resources, increasing emphasis is being placed on social values. Solutions to the city's problems require social and economic changes and improvements of such factors as unemployment, machine production, income, housing, recreation, and standards of living. For example, new locations and sources for raw materials, changes in technology, and new requirements of industry have created difficulties for many of our cities. Some of them have been impoverished by the removal of their industries to new locations, while others have been disorganized by rapid, unplanned growth. Today, planning must take all these factors into account. Changes in the trends of population growth will be of vital importance in planning for the physical and social future of the city. A few of the probable effects of the decline in the birth rate and the increase of life expectancy — in addition to an increasingly older population — are listed:

¹ Daniel H. Burnham and Edward H. Bennett, *Plan of Chicago*, Charles Moore, editor, Chicago Commercial Club, Chicago, 1909. See also Walter D. Moody, *What of the City?* A. C. McClurg & Company, Chicago, 1919.

² For a popular presentation of the *Regional Plan of New York and Its Environs*, see R. L. Duffus, *Mastering a Metropolis*, New York, Harper & Brothers, 1930.

1. Rapidly increasing urban populations have been the main cause for the great rise in real-estate values. A declining urban growth may be expected to have great effect on these values, with particular severity on business properties.

2. Smaller families and changes in age composition are likely to decrease the demand for large single-family homes and increase that for small apartments.

3. Alterations in public facilities could be expected to accommodate the changing population. Fewer new school buildings and institutions for the care of children would be needed, etc.

4. There should be increased opportunity for extended education and vocational guidance.

5. The cost of public services should be lower with a more stable and compact community.

6. A stationary or slow-growing population would probably result in higher standards of living, which would increase the demand for a higher quality of land and neighborhood.¹

The trends in population, industry, and age composition clearly indicate new conditions and problems which have hitherto been neglected. Cities have grown at an unprecedented rate of speed with an accompaniment of chaos, congestion, and waste. In the course of the flight of the more prosperous citizens to the suburbs large sections of the city have been neglected and allowed to rot. The blight has often been contagious and has spread to ever increasing areas within the city. The trend toward decentralization of our great urban centers has already been indicated.² It can be traced in part to problems caused by the failure to plan and direct urban growth constructively for the welfare of the community.

The urban metropolitan area forces upon us as humans what is at best an artificial and unsatisfactory environment and mode of living. Accordingly we seek through planning — through improved housing, better land use, increased recreation facilities and the many other objectives of modern planning effort, to ameliorate, in so far as this is possible, the most obviously disagreeable features of the city environment.³

Some of the means used for city planning and rehabilitation will be shown in the following sections.

Characteristics of City Planning. Much of what is known today as "planning" has been of a short-range, piecemeal type. The value

¹ Adapted from L. Segoe, "Population and Industrial Trends," *Planning for the Future of American Cities*, American Society of Planning Officials, Chicago, 1935, pp. 6-8.

² See Chap. XXXVI on Metropolitan Regions.

³ Charles Gordon, "Transportation as an Element in Urban Rehabilitation," *National Conference on Planning, 1939*, American Society of Planning Officials, Chicago, p. 22.

of long-range urban planning, which involves consideration and allowance for different trends which may bring about future changes, has only recently been recognized. The absence of long-range planning is not entirely the fault of our past city planners or even of the apathy of the general public, since congestion and disorder were associated with rapid growth, and rapid growth spelled prosperity. The dangers inherent in disorder and congestion were not recognized; nor, for that matter, are they always recognized today.

This long-range kind of planning requires comprehensive organization and programming. The typical city-planning program today is usually based on three principal steps, which are briefly outlined here. (1) Appointment of a planning board, composed of experts and community leaders; (2) an inventory of the city's resources through physical, economic, and social surveys, including trends in population growth, industries, structures, land use, transportation facilities, and institutions; and (3) the interpretation of the surveys and the making of specific plans for their execution. These plans may be either *short-range*, affording immediate solutions, or *long-range*, which will provide for future changes.

Generally, the principal divisions of a city plan include: (1) a plan for the regulation of traffic and transportation means, such as railway tracks, stations, and routes; streetcar and bus lines; airlines; highways; waterways; (2) a street plan regulating the types, patterns, and uses of streets; (3) a zoning plan which involves designations and restrictions for land and building use; (4) plans for the design and construction of private and public buildings; (5) plans for recreational facilities, such as parks, boulevards, and playgrounds; (6) financial plans involving special assessments, bonds, issues, and anticipated revenues and expenditures; (7) plans for public services and their use, including utilities, waste disposal, and water supply.

These items present a general outline of a comprehensive city plan. The specific nature and details of the plan will naturally vary from city to city, depending upon the problems and the factors most emphasized. No attempt has been made to show all the requirements and problems of an actual city plan; however, in order that the student may have some idea of the factors involved in each part of the city plan, a few of them are here briefly discussed.

Traffic and Transportation Plans. The direct effect of transportation on urban growth and development was discussed in Chaps. IV, The Urban and the Rural Community, and XXXVI, Metropolitan Regions. It was noted that the value of urban property is largely dependent upon its convenience of access to the maximum number of people. Changes in the city's transportation system are likely to cause properties to decrease or swell in usefulness and value. The city planners can, then, through manipulation of transportation planning, affect the other physical factors of the city plan.

The importance of transportation has been recognized to some degree in all urban areas. But the tremendous growth of population and the increased use of the automobile have outmoded many streets planned years ago for a different volume and type of traffic. Severe congestion has been inevitable. In an attempt to solve the problem, some cities have widened their streets or have taken measures to control congestion by regulating or prohibiting parking on public streets. Most of our major cities are providing new highways, sometimes in the form of spectacular engineering projects. Plans for the construction of elaborate high-speed, grade-separated highway arteries are being advanced and promoted. These improvements, designed to overcome the lack of intelligent planning and foresight in the past, have not yet solved the traffic problem, particularly the major problem of inadequate internal circulatory facilities.¹

A comprehensive plan for transportation involves an analysis of the main arteries of travel with a view to alleviating traffic congestion. A number of suggestions have been offered: The main arteries of travel should connect with the highways coming into the city. Traffic should be classified, and streets should be provided for each class of travel. The arterial highways should be able to carry fast-moving traffic with the fewest possible number of stops. Drives and boulevards should be laid out to connect parks and should follow routes of natural beauty. There should be proper connections between streets and highways leading into the country or to different cities; adequate traffic connections between freight terminals and the waterfront, or between these two and the business

¹ Charles Gordon, "Transportation, as an Element in Urban Rehabilitation," *National Conference on Planning, 1939*, American Society of Planning Officials, Chicago, p. 23.

section; elimination of grade crossings which are unnecessary hazards; proper location of airports for easy accessibility to the city; safety features in traffic regulations, such as pedestrian tunnels, viaducts, and superhighways; and through streets for certain types of vehicles.¹ Railroad passenger and freight lines and terminals and long distance bus transport as well as water transportation are essential parts of the urban transportation plan. Street planning must consider the traffic needs and uses of streets, whether for business, residential, or industrial purposes, and accordingly arrange the width, curbs, sidewalks, scenery, and safety measures. This layout and spacing of thoroughfares would indicate definite locations for residential, business, or industrial-district development in the future and can avoid such mistakes as the location of schools, libraries, and hospitals on through traffic streets.

In general, city and regional planners are directing much attention to plans as noted above, namely, to expediting the flow of automobile traffic. It should be noted that such construction would not solve the internal transportation problems of cities since it is mostly limited to automobile riders and overlooks the needs of the masses who suffer most from the congestion of our cities. A comprehensive traffic plan will have to provide public transit facilities for the masses before the basic traffic confusions and disorders of the city can be remedied.

Zoning. Zoning consists of organized control of the use of public and private lands to the greatest advantage of the general public. Today most American cities have some kind of zoning ordinance in effect. Indeed, zoning is the most prevalent example of United States planning today. The American Society of Planning Officials has estimated that there are approximately 1700 zoned cities in the United States, representing over three-fourths of the urban population of the city.

Zoning generally establishes certain *use areas* according to their chief functions, mainly residential, commercial, and industrial. Through zoning a district designated to a given use may be kept free from any encroachments which might depreciate the value of the property; endanger the health, morals, or safety of its inhabitants; or affect the future use of the neighborhood.

Zoning further establishes restrictions and special uses within a

¹ R. T. Ely and G. S. Wehrwein, *Land Economics*, New York, 1940, p. 160.

given area. For example, certain streets in a residential area might be devoted to business uses. Some residential areas might be limited to single-family dwellings, others to two-story structures or multifamily buildings. Thus, through the maintenance of homogeneity and the stabilization of values, districts dominated by one type of structure and use are protected against the invasion of other types deemed unsuitable for that area.

Zoning ordinances generally establish restrictions governing the height of structures. Regulations of height vary in different districts with different uses, and usually prohibit the establishment of buildings which will shut out light and air or obstruct the view from other structures. Considerations of safety influence the heights of buildings, since those which are too high are frequently dangerous in case of fire, storms, and earthquakes.

Zoning ordinances generally establish restrictions as to the amount of land area to be used by certain structures. In some areas, especially industrial, a building may cover an entire lot, while in other districts, particularly higher priced residential areas, only a fraction of a lot may be built upon.

The regulations and restrictions found in zoning ordinances are within the police power of the states in accordance with a Supreme Court decision which upheld such ordinances as constitutional. Through the use of this police power, the city may restrict or restrain a person from using his land in certain ways injurious to the welfare of others.

Today most zoning ordinances are in need of revision. Many were written without a plan and were defective from a long-range point of view; many of them are obsolete and antiquated; most of them are not strictly enforced and are subject to the pressures of special interests. In many instances areas which are already troubled with delinquency, fire and health hazards, housing shortage, or congestion are not zoned with a view to decreasing the density in that area. Most cities today are overzoned for business uses. To be truly effective, zoning will have to apportion the quantity of business, residential, or industrial uses suitable not only to land areas, but in relation to probable population trends and integrated with a comprehensive plan for the entire community.

The Spread of City Planning. In Chaps. IV and XXXVI we examined the major factors which have led to the remarkable changes

in the life, activities, and growth of the city during the past generation. We noted the growing decentralization, with suburbs and satellite towns on the outlying areas of the city increasing in size and population. The modern city, following the fundamental changes of economic structure, the new conditions and needs of social life, burst its bounds, sprawling over the countryside. Areas lying outside the city proper, now easily accessible through the development of rapid transportation and instant intercommunication, offered an escape from the congestion, restrictions, and high costs of the city, and new political units and separate governments originated as these outlying areas developed. City planners, busy with their own local municipal problems, did very little to integrate the peripheral communities with the "nucleus city" or to define and restrict land use and services in advance of unsound development. In most instances the central cities did not have the legal powers to deal with the planning problems of the areas outside the municipal domain. Yet the city and country life within the trade areas of the city is highly interdependent and economically integrated. City problems, like the city itself, do not end at the political boundaries, which so frequently arise by pure chance. Within the last twenty-five years, the idea of the city-planning movement, like the city itself, has broken its boundaries and spread to larger and more inclusive areas.

County Planning. County planning has grown out of city and state planning; and may have many of the characteristics of each. Where counties are urban in nature, their planning is an outgrowth of city planning; where counties are predominantly rural it is an outgrowth of state planning. Problems which extend from the city to the county and are dealt with by county and regional planners will be discussed later under "Regional Planning."

Though there are a few examples of predominantly urban counties, county planning boards and committees have originated, in the main, not as extensions of city planning but for the purpose of planning agricultural land use and coordinating the many activities of farm communities. The need for this kind of planning has grown out of major agricultural problems, chiefly resulting from past land policies. These problems include overexpansion of crop lands beyond present needs, loss of irreplaceable top soil on millions of acres through erosion, floods and dust storms resulting

from major changes in vegetative covering and artificial drainage, stranded individuals and communities on cutover forest lands, the decline or extinction of wildlife. Farmers acting individually to combat these problems can do very little; group action and public action are also needed.¹

The rural planning system is a development of the agricultural extension service of the Department of Agriculture and the agricultural land-grant colleges, which originally limited their work largely to teaching the farmer new techniques. With the introduction of new agencies for soil conservation, crop regulation, and other features of the present farm program, the farmers began to recognize the need for coordinating these activities with a community plan. To meet this need, the Department of Agriculture was reorganized in 1938 with certain divisions appointed for the development of general planning work. An agreement was made between the land-grant colleges and the Department of Agriculture which provides for establishment of an agricultural land-use planning committee in each county engaged in land-use planning.

County planning, as seen by the United States Department of Agriculture and its agencies, operates along the following lines. First, a general inventory is made by the committee covering the county, its land, people, and its economic and social structure. This is followed by an analysis of factors that have caused or contributed to the prevailing problems. Maps are made classifying land according to its best suited uses. Such an inventory and analysis is designed to give county committees a comprehensive view of problems of "population increase or decline, crop yields, land abandonment, soil erosion and depletion, tax delinquency, living standards, farm tenancy, health standards, school facilities, road-building costs, public debt, farming practices, rural relief, mortgage foreclosures, and similar problems directly or indirectly related to the land."²

The land-use planning program, in twelve months after its origination, reached 1120 of the over 3000 counties in the United States. By 1940 more than 70,000 farmers were members of organized county and community-planning committees. Although

¹ Address by Gladwin E. Young to the Mid-West Sociological Society, Des Moines, Iowa, April 19, 1940; published by the U. S. Department of Agriculture, Bureau of Agricultural Economics, Washington, D. C.

² *Ibid.*

numerous studies, inventories, and land classification maps have been developed by county-plan committees, the county movement is still largely experimental. There are many instances of definite action taken on the basis of recommendations made by the land-use planning committees, a few of which are:

1. Organization of soil conservation districts.
2. In a few cases, consolidation of townships.
3. Land classification maps have been used as a basis for recommending and determining rural zoning ordinances; location of tax delinquent areas not to be resold; priorities for expenditures on roads; locations of REA lines; relocation of CCC camps (in conjunction with the Soil Conservation Service); submarginal land acquisition and rural rehabilitation.¹

Territorially, counties are not adequate units of governmental administration. Slow, cumbersome forms of early transportation influenced the size of many of our counties, most of which originated at that time. Their boundaries, too, were largely accidental, and these have been retained despite changing conditions, largely through the forces of local habits, local pride, local politics, and patronage. Today it has been estimated that the counties in the United States could well be reduced to one-third their number. (See Chap. XXXVI, Metropolitan Regions, for a discussion of city-county consolidation and city-county separation as partial solutions to county problems in the metropolitan area.)

Adequate intrastate regional planning and persistent emphasis on the inefficiency of present county government may in time result in a reorganization of counties. But for planning purposes, counties have to be reckoned with in their present form, especially since there is little evidence of immediate reorganization. The county-planning measures discussed above, in any event, could in no way impair such county reorganization; rather, efficient planning should more clearly reveal the inadequacies of the units as they now exist.

Regional Planning. The term "regional planning" applies to a variety of areas. The region denotes an area where there is such a degree of geographical, social, economic, or cultural cohesion and unity as to set it off from surrounding areas. The boundaries of the region are generally ambiguous. The type and extent of the region will depend upon the nature of its ties; that is, whether the

¹ *Ibid.*

limits are primarily geographic, or whether it is unified by means of economic resources or services, political organization, or racial similarities. Regions may vary from the metropolitan region which may include a number of counties or even parts of several states, to a major portion or subdivision of the nation. One region may also be within a larger region, such as the metropolitan region within a more inclusive economic region. A brief classification¹ of types of regions will clarify the regional picture.

Metropolitan Regions. In Chap. XXXVI, Metropolitan Regions, we discussed the nature and extent of metropolitan areas and showed the influence of the central city over its surrounding territories. (The Chicago Metropolitan Area, for example, extends 50 miles in all directions from the city center and covers fifteen counties and parts of three states!)

Intermediate Regions. These are intermediate planning areas which are generally smaller than a state, and which may be intrastate or interstate. Planning for regions of this type is not limited to the sphere of influence of a city but covers districts of various natures. For example, the interurban Baltimore-Washington-Annapolis district in Maryland and the Columbia River Basin district in Washington are each considered as single planning units; the former because of its common urban characteristics, the latter because it is affected by a single development project.

Subnational Regions. These are generally interstate. Certain large areas in the United States with well-defined geographic, economic, or cultural ties have been recognized as subnational regions, though specifications that describe the elements of a true subnational region have not yet been developed. Among the examples of planning bodies for this type of region are the New England Regional Planning Commission, the Pacific Northwest Regional Planning Commission, and the Tennessee Valley Authority.

General Reasons for Regional Planning. There are many reasons why planning is necessary for the various types of regions mentioned above. As has been indicated, the region is composed of numerous areas with common interests and problems. Solution of the major problems generally requires the collaboration of a number of governments.

¹ Roy F. Bessey, "Need for Regional Planning Legislation," *National Conference on Planning, 1930*, American Society of Planning Officials, Chicago, p. 48.

Many of the vital problems confronted by the metropolitan region are also common to rural and intermediate regions. These include political disunity, duplication of special districts and wasteful local governments, urban and industrial patterns, water supply, transportation, road construction, power, utilities, and public works. Problems to be considered in other types of regions include agriculture, drainage-basin development and utilization, land use, soil and forest conservation. These problems cannot be dealt with by one area alone, but require a regional approach.

The problems connected with regional planning vary greatly with the type of area, with individual areas, and with the objectives of the plans themselves. The Urbanism Report of the National Resources Committee cites the objectives of planning in the metropolitan region as follows:

1. The checking of overconcentration of population, industry and urban activity in limited areas, and the ills attendant upon such overconcentration;
2. The judicious reshaping of the urban community and its region by systematic development and redevelopment; taking advantage of natural shifts to loosen up the central areas of congestion and to create a more decentralized metropolitan pattern; and
3. The extension of material and cultural advantages of urban life to a larger number of the population, and offering to the lower income groups the somewhat less tenuous existence afforded by village and small-town living.¹

The planning on an intermediate regional scale, that is, an area smaller than a state, is concerned with the analysis, conservation, development, and utilization of all the area's resources. More specifically, planning in such areas is important as a foundation for comprehensive state and national planning. A major problem of this class of planning area is the wide range of conditions found. The problems of organization in such an area are complex because one or more states, a variety of administrative state districts and departments (such as highway, sanitation, land); several counties, and even the Federal government may be involved through ownership or interests in resources and activities. As in the case of the metropolitan region, effective planning in intermediate regions depends largely upon cooperation between all local, county, and state planning agencies. Although regional planning is so recent

¹ Adapted from National Resources Committee, *Our Cities, Their Role in the National Economy*, U. S. Government Printing Office, Washington, D. C., 1937, pp. 84-85.

that concepts of its functions and limitations are still being evolved, many legislative provisions for district planning have been made in several states. Examples of this kind of regional planning may be found today in many parts of the country, among them the Maryland State Planning Commission for the Baltimore-Washington-Annapolis area, the official Niagara Frontier Planning Board in New York, and the Chariton River Basin Planning Board, covering six counties in Iowa.¹

Planning for subnational regions involves problems and conditions many of which coincide with those encountered in national and state planning. One general reason for national planning, for example, which runs parallel with regional planning, is the need for coordinating the development and use of natural resources. Most of the states, numerous federal departments, territories, and communities are engaged in conservation and development of resources, but each unit of government assumes only partial responsibility. Therefore, the role of the far-seeing coordinator must be taken by the national or regional planning agency.

The types and conditions of planning for large subnational regions are too diverse for anything but the briefest mention here. The full scope and variety of problems are stated in the regional planning series of reports of the National Resources Committee.² A glimpse here of certain problems and conditions in specific subnational regions which have already adopted some planning measures will give the student at least an insight into the factors involved.

The Pacific Northwest, for example, is a relatively coherent subnational region. It has numerous problems whose solution must be accomplished by the region as a whole through extensive study, plans, and programs. Among these problems may be mentioned that of land settlement. Over 10,000 farm families migrated and settled in Oregon, Washington, Idaho, and western Montana during 1936 alone. This in itself has required an extensive program of land reclamation, development of basic industries, and conserva-

¹ Bessey, *op. cit.*, pp. 51-55.

² Publications of the National Resources Committee, U. S. Government Printing Office, Washington, D. C., 1936:

Drainage Basin Problems and Programs.

Regional Planning, Part I, Pacific Northwest.

Regional Planning, Part II, St. Louis Region.

Regional Planning, Part III, New England.

See also Parts V, VI, and VII.

tion of natural resources. Other problems which constitute important reasons for regional planning are: the depletion of vast forest resources and its effect upon dependent industries; the development of water resources and power for irrigation, navigation, land development, flood control, and industries, mainly through development of the Columbia River system; the conservation of fisheries, both in coastal and interstate waters. Still other problems relate to improvement of transportation, recreation, and public works.¹

Problems such as those of the Pacific Northwest require collective action *between* the states for their solution. This applies to every other subnational region. Regional planning provides a way of linking the states and the Federal government for closer cooperation in understanding and developing the resources of the entire region. The accomplishment of plans recommended by the regional planning commission will depend on their acceptance by state legislatures and local bodies. The regional agency may serve to improve public relations between the states by educating the public, as well as local administrative units, as to the nature of conditions and problems within the region.² Despite the recency of regional planning organization, some noteworthy accomplishments have already been realized. The Pacific Northwest can again serve to illustrate work being done in this field. The examples here are necessarily generalized and brief.

The regional planning agency, organized for the most part in 1934, does not aim at detailed specifications for the region, but is rather working at the formation of "desirable regional objectives, policies, and programs for the principal resources and for general development and progress." It has assisted state planning in that region. It has made numerous studies and reports, some of which are: (1) a report on the Columbia Basin and its future, reviewing problems, conditions, and possible future development of the region, organization for comprehensive planning, and submitting recommendations for the solution of problems within the region;³ (2) a

¹ Roy F. Bessey, "The Pacific Northwest," *New Horizons in Planning*, American Society of Planning Officials, Chicago, 1939, pp. 153-163.

² The problems of organization for planning on a regional basis are indicated in the reports of the National Resources Committee on *Regional Factors in National Planning*, U. S. Government Printing Office, Washington, D. C., 1935.

³ This report was subsequently issued by the National Resources Committee as *Regional Planning, Part I, Pacific Northwest*.

report and recommendations with respect to the conservation, development, and usage of the forest resources; (3) a report on the Pacific Northwest water resources and their development; and (4) a report on the conservation of nationally important scenic and recreational values. The regional planning commission has been and is considering those problems already mentioned, such as migration of land settlers, land reclamation, and policies for federal power production and distribution, etc.¹

It must be kept in mind that problems confronted by the Pacific Northwest will differ in type and extent from those of other sub-national regions, such as New England or the Great Plains Region, which involves parts of ten states but does not include all of any one state. However, the ultimate objectives of regional planning commissions in all subnational regions are the same: to aid the best interests of the individual states through comprehensive, over-all consideration and planning; planning which must, moreover, dovetail into the still larger configuration of the national pattern.

State Planning. We have seen how many modern social and economic problems cannot be solved by local units, whether they be city, county, or state. With the increasing need for large-scale planning, the unsatisfactory nature of the state as a unit for planning has been repeatedly demonstrated. As previously shown, this is a major reason for regional planning. A considerable amount of voluntary cooperation is found among different state governments. The spread of the idea of planning stimulated the states as sovereign bodies to recognize the possibilities of improving their own conditions by organizing planning agencies. In less than a decade there has been a remarkable growth of state responsibility for planning measures in terms of state conservation of land, minerals, and human resources. In 1933 there were few examples of state planning agencies, though some activity in land-use planning was evident in Michigan, New York, Illinois, Iowa, and Wisconsin. In that year the National Resources Committee recommended to the governors of the states the importance of establishing state planning agencies. Within a year and a half thirty-two state legislatures passed acts setting up state agencies. Today there are forty-seven state planning boards. The National Resources Planning Board cooperates with these agencies by assigning con-

¹ Roy F. Bessey, "The Pacific Northwest," *op. cit.*, pp. 161-162.

sultants to provide technical advice on planning studies, to help the state agencies carry out their plans.¹

The activities typical of state planning boards in some half dozen states were reviewed by the Joint Conference on Planning² in 1936. In Massachusetts,³ for example, the state planning board was appointed in 1935 and adopted the following eightfold program dealing with:

Land: Agriculture, forestry, geologic resources, urban use.

Water: Supply, flow, sanitation and flood control.

Power: Production, distribution, and use.

Industry: Trade and social conditions.

Recreation: Extensive and intensive, scenery, wildlife.

Transport: Highway, rail, air and water coordination.

Public Works: Ten-year state program and budget; federal aid.

Community Planning: Encouragement and advice.

An Act passed in 1913 decreed that every city and town in Massachusetts having a population over 10,000 should create a planning board, while towns having less than 10,000 population might do so. This Act says further that such board

... shall make careful studies of the resources, possibilities and needs of the town, particularly with respect to conditions injurious to the public health or otherwise in and about rented dwellings, and make plans for the development of the municipality, with special reference to proper housing of its inhabitants.

When the state board was organized in 1935 it found 129 local planning agencies scattered throughout the state. Many of them are inactive so far as studies, plans, and recommendations are concerned, lacking the funds, the public support, and the assistance required to carry out the intent of the law. Part of the job of the Massachusetts State Planning Board is to "advise and cooperate with national, regional, county, municipal and other local planning, housing and zoning agencies within the commonwealth for the purpose of promoting coordination between the state and local

¹ A comprehensive outline of the cooperation between the National Resources Planning Board and local agencies including the region, state, county, and city is given in National Resources Planning Board, *Federal Aids to Local Planning*, U. S. Government Printing Office, Washington, D. C., 1940.

² *Planning for City, State, Region, and Nation*, American Society of Planning Officials, Chicago, 1936, pp. 81-102. For additional records of planning accomplishments, refer to the American Society of Planning Officials' reports published in 1935, 1937, 1938, 1939, and 1940.

³ Elisabeth M. Herlihy, "Massachusetts," pp. 81-87.

plans and development." The State Planning Board will coordinate such plans as exist for streets, parks and playgrounds, civic centers, and public buildings with those of the neighboring communities.¹

National Planning. The importance of integrating different classes of planning into over-all "master plans" for the whole of the nation cannot be overemphasized. Without national coordination and control, comprehensive local planning will be difficult, perhaps impossible, to achieve. Like the parts of a giant machine, the plans for rural and urban areas must be synchronized into the larger county plan, the county plan into state plans, state plans into regional; and regional plans, finally, must fit into the national pattern. Lacking this coordination, planning efforts will be disjointed and inefficient.

Planning for the nation first requires a central agency within the Federal government. Sectional planning, beneficial as it might be, is too frequently limited to the interests of its particular locale. Fortunately, the foundation for such an agency has been laid through the organization of the National Resources Planning Board. This Board was formerly the National Resources Committee, National Resources Board, and the National Planning Board (the latter organized in 1933). As a result of the Reorganization Act of 1939, the Board was reorganized and established in the Executive Office of the President as a central advisory research and planning agency. Its activities since 1933 have been along three major lines: ²

1. *State and regional planning*, encouraging cooperation in planning among local, state, and federal agencies through its nine regional offices, regional chairmen, and counselors. Consultants have been made available to states to provide technical advice. Forty-five drainage basin committees have been organized. Aerial studies have been made in such regions as the Upper Rio Grande Basin, the Pecos Basin, the Southern Forest Region, etc. These have led to

2. *National resources planning*, including the preparation of a number of studies relating to the conservation of national resources.

¹ See National Resources Committee, *State Planning — A Review of Activities and Progress*, June, 1935; and *The Future of State Planning*, U. S. Government Printing Office, Washington, D. C., March, 1938.

² National Resources Planning Board, *Federal Aids to Local Planning*, U. S. Government Printing Office, Washington, D. C., June, 1940, p. 1.

These reports outline possible lines of coordinated action and policy for consideration by Congress and the President.

3. *Long-range studies* have been prepared at the President's request which outline a number of fields in which additional planning may be warranted.

The functions and activities of the Board as shown above represent work done prior to 1940. Its present functions are particularly directed along the following course:

To advise the President from time to time of the trend of employment and business activity, and of the existence or approach of periods of business depression and unemployment in the United States or in any substantial portion thereof; and to recommend measures leading to the improvement and stabilization of economic conditions;

To collect information concerning advance construction plans and estimates by all Federal agencies, the States, municipalities, and other public and private agencies, and to list for the President and the Congress all proposed public works in the order of their relative importance with respect to, (1) the greatest good of the greatest number of people, (2) the emergency necessities of the Nation, and (3) the social, economic, and cultural advancement of the people of the United States.¹

Consultation services offered by the Board include: (1) state public works programming demonstrations; (2) state industrial location studies; (3) planning in critical problem areas caused by the impact of defense establishments; (4) preparation of plans for regional development and regional six-year public works programs; and (5) development of drainage basin plans and review of federal projects by drainage basin committees.² Today the Board is largely concerned with problems of national defense. Studies and plans now under way are considering long-range objectives as well as ways of meeting the more immediate needs of the emergency. The planning agency, in its strictly advisory capacity, can help to bring before those responsible for making decisions such recommendations as will best meet immediate defense needs and still maintain long-range objectives.

Planning in a Democracy.³ There are those who maintain that planning cannot be conducted in a democratic form of society

¹ *Ibid.*, p. 5.

² *Ibid.*

³ See Charles E. Merriam, "Planning in a Democracy," *American Planning and Civic Annual, 1940*, American Planning and Civic Association, Washington, D. C., 1940, which is freely drawn upon for this section.

but must be confined to totalitarian systems, requires autocratic authority, and uses widespread violence or the threat of violence. On the other hand the belief survives that democracy can meet the problems of life and can do so efficiently and without sacrificing the fundamental liberties of man.

Planning in a democracy assumes that the electorate understands what is meant by the term "democracy," and that the people know what they want and deliberately plan for it. A full understanding of the nature of the democratic political society makes planning not only possible in a democracy but produces the sanest and soundest form of planning.

Much of the criticism of democratic planning has come from those who hold that no substantial advance can be made toward the readjustment of our internal social problems unless all is planned in totalitarian style. There are others who cling to the conviction that governmental intervention, regulation, control, or guidance is not only unnecessary but dangerous.

The basis of planning is not autocracy, totalitarianism, or violence, but intelligent cooperation. The best results are obtained when the community has the power to decide what is best for the general welfare. It is the community that must decide what is good, what policies shall be adopted, and how the program shall be administered. Sound planning entails foresight, cooperation, and the determination to carry out the desired aims.

Most people are willing to submerge their personal interests, for a time at least, to save life and property in a great catastrophe such as fire or flood. But when it comes to an extensive program of fire or flood prevention many types of peoples and wide varieties of personal interests and choices must be reconciled. Cooperation and coordination are the basis of any democratic plan.

Planning involves a variety of activities and may be directed toward a number of distinct objectives. It would be difficult to conceive of any contemporary society in which there is not a great deal of well-considered planning for the future. In order to plan effectively, however, it is not necessary to plan everything. It is possible to have social planning without having a planned society.

Social Planning. The primary reason for social planning is to afford an opportunity for every individual to live abundantly, to enjoy all that is included in the term "living" and to aid in the

development of the highest human capacities within his power of attainment. It has been stated many times that the fundamental wants of man are food, shelter, and clothing. It is a deplorable situation that a large part of our population is undernourished, ill-housed, and poorly clad.

Our population has not distributed itself over the surface of the earth in an orderly fashion, nor with any preconceived notions of the abundance or scarcity of the natural resources. There are wide regional disparities in levels of living and opportunities, and there has been a great deal of movement — much of it random — on the part of our people to find more favorable places of settlement. As pointed out in Chap. II, our rate of population growth has slowed down, which means that our economic order must be adjusted to meet the needs of a stationary population. We know that advances in medicine, sanitation, and hygiene have prolonged the expectancy of life, which means that America is biologically growing older, while technological advances have geared our industrial machinery up to such a speed that only youth, stamina, alertness, and endurance have any place in its program.

Social and economic planning agencies may well direct their efforts toward a more rational treatment of these problems. Some of the objectives toward which planning activities have been directed may be considered in order to indicate the typical means and ends of planning.

Planning for Housing. The provision of adequate housing presents one of the major social problems that confronts society today. To go into the nature of the problem, to explain the policies and functions of the various governmental agencies concerned, would only be repeating what has already been treated in Chap. V. Suffice it here to say that not only is private enterprise in housing to a large extent subject to planning and public controls of various kinds, but an ever increasing proportion of the total housing effort is carried on by government itself, and hence must be planned on a local and national scale.

Planning for Health. Poor health is a concomitant of bad housing. The National Resources Planning Board has stated that a third of the population, those with incomes under \$750 a year, is receiving inadequate or no medical service. Hospital and other institutional facilities are insufficient in many communities, especially in rural

areas. The federal Interdepartmental Committee on Health and Welfare estimated that it would cost the Federal, state, and local governments \$850,000,000 a year to relieve these conditions. Students of the problem balance the country's annual loss of approximately ten billion dollars a year from illness and premature death, against this expenditure, and hence believe it a wise investment.¹

The United States Public Health Service recently estimated that to provide minimum general hospital facilities for the rural areas would require 270 new hospitals with a total capacity of 15,500 beds; and to provide adequate hospitalization for tuberculosis patients and the mentally diseased would require an additional expenditure of \$500,000,000.

Among the public agencies that have concerned themselves with health planning are the local and state departments of health, the United States Public Health Service, the Interdepartmental Committee to Coordinate Health and Welfare Activities, created by the President in 1935 which fosters joint planning on the state and federal levels, and a number of other federal agencies such as the Children's Bureau of the United States Department of Labor through its maternity and child-welfare services, the Bureau of Census through its statistical reports, and the Federal Security Agency through a variety of functions.

Privately endowed foundations as well as such nonofficial agencies as the American Red Cross, the National Tuberculosis Association, the American Social Hygiene Association, and the National Committee for Mental Hygiene have made notable contributions in health planning through personnel and financial aid. Such professional agencies as the American Medical Association, the American Hospital Association, the American Dental Association, and the National Association for Public Health Nursing, along with many others, are cooperating with federal, state, and local agencies in a nation-wide program of public-health planning. Probably the most unique attempt at health planning was that of the Committee on the Cost of Medical Care. Its aim was to study the economic aspects of the prevention and care of sickness.²

¹ National Resources Planning Board, *Our National Resources: Facts and Problems*, U. S. Government Printing Office, Washington, D. C., 1940.

² G. B. Galloway *et al.*, *Planning for America*, Henry Holt and Company, Inc., New York, 1941, Chap. 22.

Planning for Education. In recent decades the increased enrollment in secondary schools and institutions of higher learning has caused serious complications in the communities which support them. The main support of public elementary and secondary schools comes from local tax levies on real property. This burden has become so great that in some instances the states have had to assume it themselves. There is an increasing demand that the Federal government provide funds for public education, especially to those states that are unable to pay for well-equipped schools.

Educators have noticed that the public schools and even institutions of higher learning have enrolled many young persons who are not interested in the traditional academic courses. There is also a tendency on the part of some young people to stay in school because they cannot find work. Those who do leave school prematurely find that in competing with experienced workers for the proportionally smaller number of jobs they have little hope of success. The question then arises what is to be done with the group of young people between the ages of eighteen and twenty-five who are not able for financial reasons to go to school, or who do not care to, and who are unable to get jobs.

Since 1933, the Federal government has felt it necessary to provide work and some measure of education on projects supported by federal relief funds. The Smith-Hughes Act and the recent George-Deen Act have provided facilities for vocational training, and the National Youth Administration and Civilian Conservation Corps work have had an important share in this task. However, notable as these Acts are, they do not provide adequately for a long-time educational planning program that will aid the young people to adjust themselves and earn a living in a changing world.

The National Education Association, the Progressive Educational Association, and the National Congress of Parents and Teachers, as well as many private foundations, have spent time and money in measuring educational needs and in proposing improvements. One of the greatest obstacles to planning for education seems to be the inability of the various agencies to agree on a large coordinated planning effort.

Planning for Social Security. Our present economic system is the result of a highly complex machine economy. In the past our atten-

tion has been centered on greater production and lower cost per unit of output. Almost all planning has been directed to the productive mechanism itself. So intricate has become this structure that any maladjustment in the industry has caused social problems so grave as to draw to our attention the need for another type of planning — that in the interest of the individuals who operate the machines and who suffer from the fluctuations in employment, which in turn affect society at large.

Planning for social security not only includes unemployment insurance, old-age insurance, workmen's compensation, disability insurance, and health insurance, but also employment service, public assistance, public-work projects, and public welfare generally. The basis for all planning for social security has been to provide a greater degree of security for those affected by the instability of our economic system.

The greatest menaces to the worker are the fear of loss of income through illness or accident, through old age, and through unemployment. Our present social security measures, although far from meeting the needs, represent a step forward. Future legislation will be confronted with the task of adjusting these inadequacies. The task that confronts our government today is to determine the scale of payments under each measure to secure the greatest degree of family protection while preserving individual initiative and offering least interference to the productive process.¹

Economic Planning. *Savings Versus Capital Investment.* If democracy is to thrive in a highly industrialized nation such as the United States it is necessary to maintain a high level of national income which means a high plane of living. A fall in the level of the national income means a decrease in the income from property and in the number of jobs. Lack of jobs means a decrease in purchasing power while more goods are being offered at a price than will be taken from the market. This condition, if allowed to continue on the theory that all will right itself in due course of the business cycle, results in vast armies of unemployed and the loss of savings and security.

It has been suggested that unemployment could be lessened and a greater degree of economic stability could be maintained by planning the flow of capital and the amount of savings. In our

¹ Galloway, *op. cit.*, Chap. 24.

economic order it is not to be expected that the individual or the businessman will so direct his spending and savings as to relieve unemployment and do away with depression; nor can we hope for the government to accomplish this task alone. However, in the past decade there has been a decided trend toward a greater amount of cooperation between government and business. The recent report of the National Resources Planning Board suggesting a six-year program of capital expenditures to supplement lulls in business activity when the defense program slackens is evidence of this fact.

Other means for influencing investments and savings which the government may employ are its tax and fiscal systems.

If savings and investments are to be directed toward the attainment of a higher level of national income and full employment, it will no doubt include planning measures for a better timed public-works program. The social maladjustments resulting from prolonged depressions may be somewhat lessened by regulating the rate of saving, the revision of our fiscal system, and perhaps governmental intervention in newer economic fields.

Fiscal Policy. In the past decade no subjects have attracted more attention than that of government spending and unemployment. Economists have debated the relation of the rate of interest to saving and investment. Some say that full employment is the normal result of undisturbed economic processes, and that our economic system has no inherent tendency toward full employment. If we accept the premise that full employment is not to be achieved in our modern society, we cannot place the responsibility on private industry; likewise, if full employment is denied we cannot criticize the government for trying to relieve the condition.

Government intervention to restore an equilibrium may, for instance, be accomplished by lowering the interest rate and by purchasing securities, thus leaving the banks with a large amount of liquid funds, making investments in other fields more attractive. The gap between private employment and full employment may be closed by the provision of public funds. Our recent PWA and WPA projects and the activities of government lending agencies are examples of direct government action. Such employment of public funds has an indirect effect on private industry by creating a demand for materials in those industries that will, in turn, demand

more labor, thus adding to the purchasing power of an otherwise unemployed group.

A wise and well-planned fiscal policy will not compete with private industry in the investment of private capital because of higher interest rates or the employment of men who could otherwise be used in private industry. This reasoning holds true only if full employment exists.

History is replete with examples of social maladjustments resulting from the various phases of the business cycle. What governmental planning is necessary to pick up the slack in private industry in periods of depression, when and how much to taper off this assistance as private industry readjusts itself, and to what extent governmental aid may go without interfering too much with fundamental democratic institutions — all these command the attention of the most carefully organized and coordinated planning bodies.

THE CONSERVATION OF OUR NATURAL RESOURCES

Land-use Planning. The two billion acres of land within the United States; the rain and snow that fall on this land; the rivers, waterfalls, and lakes; the coal, oil, and other mineral deposits that lie on and beneath the land; the people that live here and their multitude of talents, skills, and activities, form our natural and human resources. The wealth of our nation is measured by the way we conserve, use, and develop these resources.

The westward march of our civilization adopted the attitude that America was a land to be exploited rather than developed. The individualism of the frontier was a philosophy which developed naturally because of the absence of a pressure of population on the apparently limitless natural resources. Since the beginning of the industrialization of the United States this mad rush to reap the rewards of a nation so richly endowed has proceeded, leaving tragedy and waste in its wake. Today we are paying the price of the wasteful, planless use of our still great resources which continues virtually unchecked in many fields.

Table LXXIX reveals some interesting facts concerning the major uses of land in the United States. (See also Fig. 62.)

When we consider that by far the greater part of the land is in private ownership, distributed widely over the entire United

States, we can understand the need for a national land program developed along regional, state, and local lines. Only about one-quarter of the land is owned by the Federal government, and that is located chiefly in the western states and is used for timber or wildlife production, grazing, and recreation. It has been estimated that of our total land area only about one-fifth is under cultivation, or 415,000,000 acres. Erosion has damaged approximately 76,000,000 acres to such an extent that they should be retired from cultivation.

TABLE LXXIX¹
MAJOR LAND USES IN THE UNITED STATES

	<i>Millions of Acres</i>	<i>Per Cent</i>
LAND IN FARMS:		
Crop land harvested	359	18.9
Idle, failure, and waste	99	5.1
Plowable pasture	109	5.7
Nonplowable pasture	270	14.2
Woodland pasture	85	4.5
Woodland not pastured	65	3.4
Total	987	51.8
LAND NOT IN FARMS:		
Private forest (grazed)	143	7.5
Public forest (grazed)	106	5.6
Private forest (not grazed)	151	7.9
Public forest (not grazed)	57	3.0
Private grazing land	126	6.6
Public grazing land	203	10.7
Cities and towns	12	.7 -
Parks, reservations, etc.	13	.7 +
Roads, railroads	23	1.1
Desert, swamps, rocky, and dunes	83	4.4
Total	917	48.2
Total land	1904	100.0

Our present national land-conservation policy has three major objectives: (1) the classification of each acre of land with respect to its possible use potentialities, (2) planning for the most economical utilization of land, and (3) the reconciliation of national and regional policies with local resources and needs.

¹ From National Resources Planning Board, *Our National Resources: Facts and Problems*, U. S. Government Printing Office, Washington, D. C., 1940, p. 14.

The soil survey of the Bureau of Plant Industry classifies land with respect to its use capabilities for specific crops. Over one billion acres have been mapped by the topographic surveys which furnish valuable information concerning the physical features of the land. This information is further supplemented by the Bureau of Agricultural Economics working in cooperation with similar state agencies in effecting desirable readjustments in types of farm-

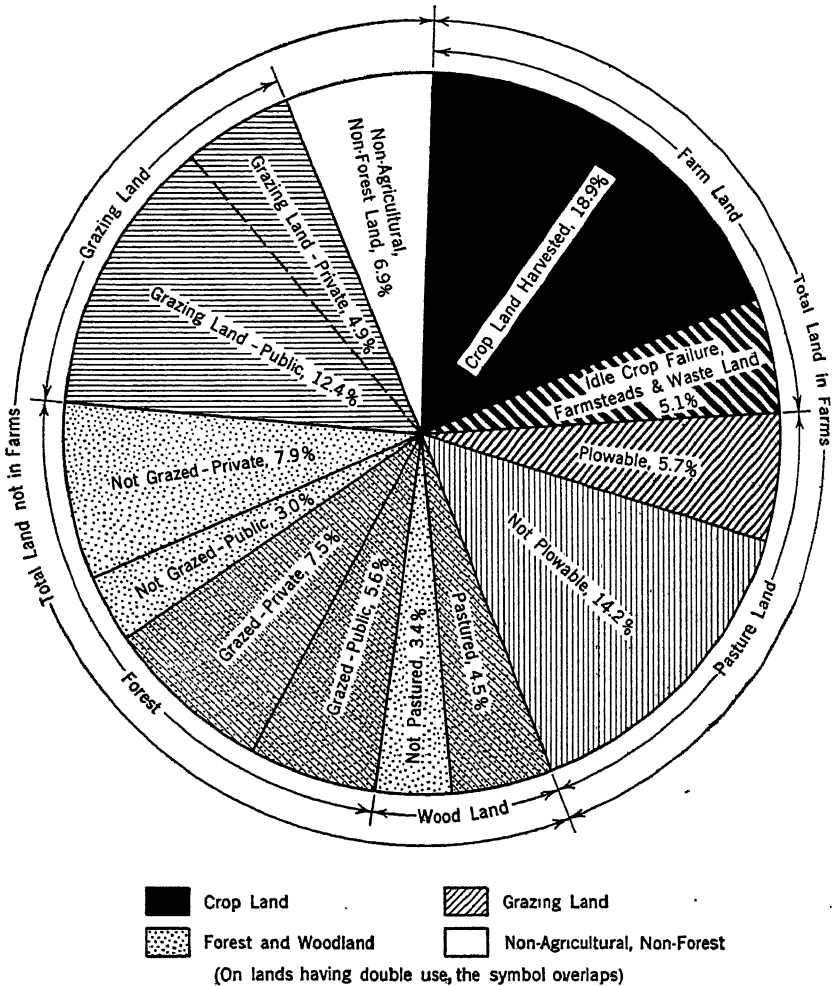


FIG. 62. MAJOR USES OF LAND IN THE UNITED STATES

Total land in the United States is a little less than 2 billion acres. From National Resources Planning Board, *Our National Resources*, Washington, D. C., 1940, p. 15.

ing and in furnishing information concerning major environmental influences.¹

As an aid in reducing and preventing soil erosion the Soil Conservation Service has surveyed the needs of some eighty-six million acres of land. The SCS recommended that farmers cooperate in checking sheet erosion by contour plowing which checks the waste of water by plowing at right angles rather than up and down hills, wise crop rotation, and the construction of small check dams and reservoirs to conserve water, leaving the broader and more extensive conservation program to be carried out by the national government.

Among the measures proposed by the Soil Conservation Service were the withdrawal of submarginal crop lands from cultivation, terracing of slopes, construction of check dams, and the furtherance of crop-rotation systems. Congress also authorized the extension of the service of the Civilian Conservation Corps to include private lands through cooperative agreements. Supplementing the SCS program are the activities of the Bureau of Land Reclamation, which has surveyed 1,250,000 acres with respect to topography, soil, and drainage, in order to determine what portion should be placed under ditch and new irrigation projects. The main purpose of the Bureau, however, has to do with the repayment of the project costs and the limiting of the size of farm units.

A Rural-Urban Program. The major problems arising out of agricultural land use had their beginnings in the city. The lack of off-farm employment opportunities in industry and the growing gap between the incomes of city and farm workers were responsible for a large measure of the agricultural distress of the early 'thirties. Consequently, it has become more evident in the past decade that a program directed to rural land use alone will not be a solution for the human ills arising out of this disparity. Since 1933 the entire programming divisions of the Agricultural Adjustment Administration have been directed toward rural relief. It is apparent that, if we are to attain the optimum standard of living for our rural and urban population, there is a need for a systematic effort in the direction of a national policy directly affecting the general welfare of both groups at the same time. Some efforts in this direction are now being stimulated by the National Resources Planning Board

¹ Galloway, *op. cit.*, pp. 89-97.

and its integrated regional agencies in the districts of New England, the Pacific Northwest, the Southeast, and the Northern Lake States.

Water Conservation. The water supply of a nation represents one of its major assets. The degree to which a people utilize this form of national wealth will depend upon the cooperation of the individuals in the interest of the general welfare. Water, besides being a vital necessity in everyday life for drinking, washing, and cooking, renders important services in transportation, irrigation, and as a source of power.

The conservation of our water resources is an important problem of social control. A city's pure and abundant water supply is a good illustration of a conscious adaptation of the physical environment to the needs of civilized man. The serious consequences of a lack of human control over water resources were dramatically emphasized during the floods of 1936.

Problems in any single water development generally relate to several other types of water use or control. Thus the hydropower problem may be complicated by requirements for navigation, water supply, waste dilution, or flood control. Irrigation may be complicated by water pollution, either natural or man-made. Therefore, the solution of any one of these problems rests upon an integrated program.

The greatest problem confronting irrigation projects is that of cost. In many of the potentially irrigable areas, the cost of operating an irrigation enterprise is at present believed to be prohibitive. The 1930 Census showed a total of 51,500,000 acres susceptible to irrigation, of which 19,000,000 were irrigated in 1929.

Under the Reclamation Act of 1902, the water users contracted to pay operating costs and to repay the government the construction costs, without interest, over a period of 40 years. Up to the present time (November, 1941) about \$250,000,000 has been spent on projects comprising more than 3,000,000 acres. Since 1932 a supplemental water supply has been provided for 2,500,000 acres at a cost of \$300,000,000.

Much of the interest in the land reclamation program in recent years has been stimulated by the westward migration of those farm families who have been driven from the drought areas of the Great Plains regions. It has been estimated that 50,000 such

families have claimed the states of Idaho, Washington, Oregon, and California as their new homes.

Multiple Purpose Projects. The National Resources Planning Board reports seventeen major drainage basins whose problems are of a regional character and of necessity involve the coordinated efforts of both federal and state interests. The Army engineers have built the Bonneville Dam on the Columbia River for both navigation and power, and the Tygart Dam on the Kanawha River for navigation and flood control. The Bureau of Reclamation has built the Grand Coulee Dam on the Columbia and the Boulder Dam on the Colorado for irrigation, flood control, and power, the latter project involving agreements with several states through an interstate compact. The Grand River Dam in Oklahoma was built by the state for flood control and was designated and paid for under federal authority. Under a special act of Congress, based on the commerce clause of the Constitution, the Tennessee Valley Authority provides navigation facilities designed by the Army engineers, and flood control and power designed by the Authority, with full consideration of other interests of the affected states.¹

In the past decade great progress has been made in the techniques of water planning on the various governmental levels. The National Resources Planning Board has coordinated the activities of the major planning agencies and the forty-five drainage basin committees in order that they may exchange views on survey and construction work in progress and thus receive the benefit of the most effective contribution which each agency is able to make.

The most far-reaching advance in planning on the federal level was the issuance of an executive order by the President of the United States in 1940, providing for the clearance of all public works undertakings through the Bureau of the Budget and the office of the National Resources Planning Board. These offices are directly responsible for the various stages of initial investigation and of proposals for authorization, construction, and finance.

It is estimated that the undeveloped water-power sites in the United States are capable of producing six times as much electric energy as those now developed. In horsepower developed by water

¹ National Resources Planning Board, *Our National Resources: Facts and Problems*, *op. cit.*

per 1000 persons the United States is tenth among the nations of the world.¹

Energy Resources. The heat, light, and power essential to our civilization are derived from the energy resources — coal, oil, natural gas, and water power. The National Resources Planning Board's figures show the relative importance of the energy-producing agents in 1937 to have been as follows: coal 54 per cent, petroleum 32 per cent, natural gas 10 per cent, and water power 4 per cent.

Since 1900 the rankings of the world's three main sources of power have been changing. In 1913 the relative positions of these three energy-producing agents stood: 89 per cent coal, 7 per cent petroleum, and 4 per cent water. This change is likely to continue until the irreplaceable agents are exhausted, unless new sources of power are likely to come into use.

Insofar as the mineral fuels are concerned, we have an abundance in comparison with the rest of the world. However, quantities of the higher grade fuels — petroleum, natural gas, and the superior coals — are limited. Recent studies indicate that the nation's energy resources should be safeguarded, and that a sound national policy must be concerned with their conservation and prudent utilization. Conservation of our energy resources involves problems of conflicting economic interests and jurisdictions as to the best method of securing the wisest use of each resource. There is general agreement on a broad program of wise utilization of the energy resources, but the main difficulty lies with the short-run point of view of vested interests as contrasted with the long-term interests of all.

Coal Resources. The United States alone, with well over 40 per cent of the known reserves, mines about 30 per cent of the total annual production.² From the standpoint of value coal ranks first among the energy-producing resources. The anthracite deposits of the United States, located chiefly in Pennsylvania, are by far the most important in the world in both quality and quantity. The most important bituminous fields are in the Appalachian Mountains, extending from Alabama to Pennsylvania. The aggregate

¹ Ellsworth Huntington, *Principles of Economic Geography*, John Wiley & Sons, Inc., New York, 1940, p. 517, table 31.

² Howard S. Patterson and Karl W. H. Scholz, *Economic Problems of Modern Life*, McGraw-Hill Book Company, Inc., New York, 1937, pp. 403-411.

coal areas of the United States approximate 500,000 square miles, or about 13 per cent of the area of the country.

The production of coal is distributed over thirty-one states of the Union. In 1940 bituminous coal accounted for 85 per cent of the output, or 500,000,000 tons. More than a half-million miners are employed in some 14,500 mines, although 10 per cent of these mines produce as much as 80 per cent of the total supply.

An additional problem presents itself in the conservation of coal, when it is recalled that over 70 per cent of the known supply is distributed over approximately 85 per cent of the area of the United States. To draw our present coal supply from all of such a wide area would tax the nation's methods and means of transportation beyond its present capacities. There is all the more reason for concern when two states, Pennsylvania and West Virginia, produce more than one-half of the output and have less than one-tenth of the aggregate reserves.

It has been estimated that at the present rate of depletion the best bituminous coal seams will be exhausted within three generations. Pennsylvania has already given up about one-fourth of its finest deposits. One might add to this the fact that over 30 per cent of the mined coal is wasted, that the greater percentage of the remaining supply is of an inferior grade, and that most recent conservative surveys show reductions of the aggregate estimates.

Petroleum Resources. Petroleum is important as a source of supply of gasoline, kerosene, lubricants, fuel oils, and many other valuable products. The industries of peace as well as the agencies of war are seriously concerned with our potential supplies of petroleum. Petroleum is by no means the only source of gasoline. Gasoline is produced from oil shales, from coal, including low-grade material of little value otherwise, and from natural gas. In the United States about one-tenth of the gasoline now comes from natural gas.

Distribution of Oil Production. Despite the rapid growth of oil fields in foreign lands, the United States still continues to furnish almost two-thirds of the world's total petroleum. From the standpoint of size and integration the industry compares with that of coal. There are thousands of companies engaged in some phase of production, which is distributed over twenty-one states. However, twenty companies account for approximately two-thirds of

the investment. California, which was formerly the leading producer in the United States and in the world, is now surpassed by Texas, which alone produces a quarter of the world's production.

In 1940 the American Petroleum Institute placed the volume of proved reserves at 18,500,000,000 barrels with an energy value equal to about 5,000,000,000 tons of bituminous coal, or that of 10 years' coal production. To maintain our present supply ratio to proved reserves would require the discovery of from two to two and one-half billion barrels per year.

Natural Gas. Vast quantities of natural gas are associated with petroleum in practically all oil fields. Our natural gas reserve has been variously estimated to be the equivalent of 4 to 5 billion tons of bituminous coal, or almost equivalent to those of petroleum. Consumption of natural gas in 1940 approximated two and one-half billion feet, and an equivalent amount was wasted by being either blown into the air or idly burned.

Although about as much natural gas is wasted as is consumed, it is a valuable product for heating and cooking, and in the earlier days it furnished much light. Today it is a source of "dry ice," and of helium for airships. It also accounts for about one-tenth of our gasoline. The estimated value of the annual output in the United States is one-half billion dollars.

Each of the energy-producing agencies, excepting water, has been exploited on the ground that according to the law of the land its ownership is vested in him who first reduces it to possession, regardless of the possible source from which it comes. Past attempts of private agencies to conserve these resources through cooperative means have been a failure. Attempts at production control through interstate agreements, *proration*, and *unit pool* operations have likewise proved ineffective.¹ Consequently, some form of governmental aid and control has become increasingly necessary if the conservation of these resources is to proceed in the interest of all.

PLANNING UNDER VARIOUS TYPES OF GOVERNMENT

Planned Economic Activity. Economic planning means the making of major economic decisions — what and how much is to

¹ Under proration each producer is given a quota which represents a fractional part of his total productive capacity. Unit pool operation involves the formation of a "pool" directed by a single authority to whom individual operators surrender their private rights in exchange for a share of the proceeds of cooperative exploitation.

be produced, how, when and where it is to be produced, and to whom it is to be allocated — by the conscious decision of a determinate authority, on the basis of a comprehensive survey of the economic system as a whole.¹ In a society so planned, rational co-ordination in the economy as a whole would be substituted for the separate and independent wills of a large number of economic agents, each of whom now makes his decisions in ignorance of all the others.

Partial or piecemeal planning would be excluded, for a balanced industrial society would be nonexistent unless each economic agent was forced to make his decision on the basis of the general welfare rather than the possibility of greater profits for himself. Thus, any scheme that deliberately controls the price-level, or the proportion between consumption-goods industries and capital-goods industries, or the distribution of the national income among different social groups is an example of economic planning.

In this sense economic planning implies the unification of property rights in the means of production. In effect, the planning authority would be vested with control of the factors of production. Unified ownership of the means of production would mean little more to the enterpriser than a vested right to receive certain incomes based on the general product of planned industry. However, unified ownership does not necessarily mean public ownership, nor does it imply that planning is conditioned upon public ownership of the means of production. It now remains for us to discover the place that planning occupies in various economic systems.

Planning in an Individualistic-Capitalistic Society. The philosophy of individualism had its beginning in the early part of the nineteenth century. Adam Smith, an ardent supporter of this theory, held that under conditions of free competition, production would be guided by self-interest since each individual knew his own interests best. *Laissez faire*² and *caveat emptor*³ were popular phrases of the day.

However, with the coming of the industrial era, the concentration of great amounts of capital in the hands of the few, and the

¹ H. D. Dickenson, *Economics of Socialism*, Oxford University Press, 1939.

² "Let it do." Government is not to interfere with economic process or business.

³ "Let the buyer beware!" In the absence of misrepresentation the seller is not responsible if the buyer purchases inferior goods.

attending effects of monopolies, combines, trusts, and trade agreements, the laissez faire theorists were forced to recognize that there was some limit to self-interest as an economic motive. Hence, modern industrialism rendered the individualism of the frontier and the simple economic society untenable.

In a free-enterprise economy all planning is prompted by the profit motive directed toward the price structure. So strong has been the profit incentive that it has resulted in the control of production, the limiting of supply, the creation of artificial demand and price, as well as directing consumer choices by various advertising appeals. It is becoming evident that planning for these ends cannot be in the interests of the general welfare, and it now remains for us to consider whether there is a possible solution for this problem in a capitalistic society.

A capitalistic society is characterized by a system of free competition, free enterprise, and private property. All the means of production are privately owned and the profits accruing therefrom go to private persons rather than to the state. Two questions arise: (1) Can a planned organization of economic activity be combined with private ownership of the means of production? (2) Must this unification ultimately lead to public ownership and to the abolition of the income from private property, that is, to socialism, or is it possible that a planned economy would continue to hand over a large proportion of its total product to a small class of renters? ¹ Under our definition of capitalism both of these questions must be answered in the negative. Capitalism, with its reliance upon a free market, is incompatible with a planned economy.

Any mixed system of public and private enterprise, or combination of planning with private property in the means of production, whether it be in the form of state ownership, of state control, or of fiscal manipulation that does not plan the national economy as a whole, suffers from all the defects of an unplanned economy and from some peculiar to itself. If the state manages an enterprise, it is merely an enterpriser among many. It must compete in the open market for the factors of production (land, labor, and capital) and is subject to cyclical fluctuations in the supply of capital, just as are private entrepreneurs.

¹ Raymond T. Bye and William W. Hewett, *Applied Economics*, F. S. Crofts & Co., New York, 1936, p. 656.

Let us suppose that under a system of capitalism our goal is so to plan as to strike a better balance between production and consumption and to effect a more equitable distribution of the national income. We appoint a planning commission vested with power to enforce its decisions. After a comprehensive survey the commission decides to curtail production in industry *A*, while encouraging production in industry *B* even to the extent of a tariff or subsidy. This means that marginal and near-marginal producers in industry *A* will be eliminated and the efficient firms protected. Therefore even though the private citizen has the necessary capital to enter industry *A*, he is not free to exercise his rights under capitalism. Because of the action of the planning authority there is insufficient scope for expansion.

To take another example, assume that the commission decides to encourage the cotton industry and curtail the importation and manufacture of woolens. But the consumer decides that nylon and artificial silk are more practical than cotton, and the cotton fiber market all but disappears. If, in addition technological advances were to come to the aid of the wool, nylon, and artificial silk industries so that they were able to show greater profits than ever, the result might be that the industry that the commission wished to encourage, that is cotton, now shows great losses, while the industries it desired to curtail have made enormous profits. To adjust these difficulties the commission would be compelled to resort to price control and put extensive limitations on consumers' choices.

Thus, it is evident that national economic planning in a capitalistic society cannot exist without drastically limiting free competition, free enterprise, and private property. It would necessitate various restrictions on consumers' choices and the equivalent of the drafting of the factors of production.

Planning under Socialism. "Socialism" is a term so broadly used that it includes many different schemes of social organization. The term is used here to refer to the collective ownership and democratic management of the socially necessary means of production. The most outstanding example of socialistic planning in modern society is that being carried on in the Soviet Union.

The five-year plan of the Soviet Union from 1928-1929 to 1932-1933 was designed to cover virtually all phases of the social

and economic life of the country. It dealt specifically with such branches of economic and social activities as (1) electrification, (2) light and heavy industry, (3) agriculture, (4) transportation, (5) communication, (6) consumers' cooperatives, (7) labor, (8) public instruction, (9) scientific research, (10) health protection and social life, (11) housing, and (12) finance.¹

Commenting upon the possibilities of this plan's success, V. V. Obolensky-Ossinsky, formerly head of the Central Statistical Board of the U.S.S.R., declares:

The gigantic and complicated mechanism of modern economy can operate effectively only if (1) hundreds of thousands of capitalists and their agents, who are personally and materially interested in their own enterprises and who enjoy sufficient freedom to display "private initiative," automatically cooperate with each other; or (2) a single directing body is set up to exercise an all-pervading and complete control over the whole mechanism — or, at least, over the decisive part of it — in the initial stage.²

After a policy has been decided upon, it is possible to begin to plan. At the top the Soviet Union has a state planning commission. The function of this is not that of supreme industrial command, but of advice and correlation. What it does is to coordinate the plans which have been submitted by the planning commissions of subordinate governmental units.³

After the plans have been received in Moscow the State Planning Commission or Gosplan, with its huge force of statisticians, accountants, and clerks, proceeds to formulate production schedules and to establish quotas. If the plans of the local and regional bodies are not in complete conformity with the policies of the All-Union plan they are revised and returned. Thus planning proceeds simultaneously from the top down and from the bottom up.⁴

The Central Statistical Administration performs such a vital service that it has been an autonomous section of the State Planning Commission of the U.S.S.R. Statistical and accounting schedules are standardized. Statistical reports on specific dates are obligatory for each economic unit of the country. Each unit

¹ H. W. Laidler, *Socializing Our Democracy*, Harper & Brothers, N. Y., 1935, p. 43.

² *Ibid.*, pp. 45-46, quoting from V. V. Obolensky-Ossinsky, *World Social Economic Planning*, International Industrial Relations Institute, Amsterdam, 1932.

³ George Soule, *A Planned Society*, The Macmillan Company, New York, 1934, pp. 217-218.

⁴ *Ibid.*

reports to its central unit or regulating body. Thus all collective farms report to the Department of Agriculture, all industrial plants to the Commissariats of Heavy and Light Industries, all cooperative stores to the Central Union of Consumers' Cooperatives Societies, and so on.

Another important section of the plan is the establishment of "Norms of Production Technique." This aims to define what technical perfection a specific branch has to reach, to what extent the existing apparatus has to be used, and what the quality of the products should be. Analogous to these norms are all the planned data concerning number of laborers, their classification, training, wages, and living conditions. All cultural life and service institutions, including the professional, are initiated by the local and regional political units which are aided by the central government with special subventions (grants-in-aid) on specific conditions. Even to mention all the sections of the U.S.S.R. plan would occupy too much space. However, the real interest of any such study consists in getting an idea of the features, development, and prospects of an entirely different economic and social system.

SELECTION AND TRAINING OF PLANNING PERSONNEL

To select the personnel of any organization requires at the outset an analysis of the functions to be performed by each agent at the different levels of responsibility. Instead of attempting to give a detailed description of the various positions existing in national, state, county, and municipal planning agencies, the Committee on Personnel of the American Society of Planning Officials has reduced the classifications to a "least common denominator." It is possible on this basis to distinguish planning work from the administrative, architectural, engineering, or legal function.

Planning positions are classified (1) as to level of responsibility, (2) as to level or function of government, and (3) as to the subject-matter field. However, too fine a classification defeats clarity, while salary ranges that are too broad between levels defeat "equal pay for equal work."

Every governmental unit has its own scheme of salary classification for at least some of its professional duties, but salaries for planning positions will necessarily have to conform somewhat to those already established by the community.

It is recognized that salaries vary in different cities and in different sections of the country. For that reason each planning agency will have to work out a personnel classification with its own civil service commission. The Committee on Personnel of the American Society of Planning Officials has suggested the following planning titles and their classification by salary grades.¹

TABLE LXXX

<i>Title</i>	<i>Salary Grades</i>
1. Junior Planning Assistant	\$1200-\$1800
2. Planning Assistant	\$1800-\$2400
3. Senior Planning Assistant	\$2400-\$3200
4. Assistant Planner	\$3200-\$4200
5. Associate Planner	\$4200-\$5600
6. Senior Planner	\$5600-\$7000
7. Planning Director	\$7000 and over

Upon the basis of any agreed salary classification, it is necessary to describe and measure the factors which should govern the allocation of any particular position to a definite class. The general bases of such differentiation appear to be at least three in number: (1) degree of responsibility; (2) special techniques or skills; (3) special fields of activity. The large jurisdictions may require planners who will concentrate on definite subject matters.

When each of the seven positions classified above was examined in its relation to the planning programs of national, state, and local agencies, however, its duties and qualifications proved so similar that it was agreed that descriptions of planning positions might be divided into two general categories: (1) descriptions of planning duties and qualifications for each of the seven basic positions; (2) selected descriptions of these positions applied to different-sized jurisdictions, special techniques, or special fields of activity.

The following is a brief summary of the duties and qualifications of the major positions.

Qualifications of Planning Director. Ability to develop and stimulate comprehensive solutions of complex problems of a social,

¹ Tables, duties, and requirements for the various positions among the planning personnel are taken in part from a recent survey conducted by the American Society of Planning Officials. Walter H. Blucher, Executive Director, has kindly granted permission for this partial reproduction.

economic, and physical character: such ability requires broad vision, imagination, tempered with practical experience, thoroughness, and sound judgment, together with competence of a high order in the abilities indicated as necessary to perform the duties as specified above — that is, to administer, to survey, to analyze, and to coordinate relevant factors affecting planning problems. Ability to develop budgets and financial programs; to prepare clear and accurate reports; to speak publicly. Ability to evaluate the importance of data and to judge all plans as to their practical applications. Perhaps the most important ability required is that of analysis and synthesis.

Graduation from an institution of higher learning, or equivalent, and several years of general experience in planning work of a character suitable for the successful performance of the duties and responsibilities in a planning agency. General or responsible planning experience of particular appropriateness will afford additional credit or may be considered as a substitute for a portion of either required type of experience.

Other Qualifications. (Ordinarily required by progressive civil service agencies, depending upon special or local conditions): Personal integrity, age limits, physical fitness, recency, and successfulness of experience.¹

Senior, Associate, and Assistant Planners. In general, these three positions are differentiated from each other and from that of Planning Director by: (1) degree of responsibility, (2) special techniques or skills, and (3) special fields of activity.

The duties of the Senior Planner are to work under the direction of the Planning Director, but with wide latitude for action or decision; administer a section of the planning unit; or assist the Planning Director in the general administration of the entire unit.

These basic descriptions may be varied where specialized techniques or skills are required of the particular staff member, or in accordance with special subject matters to which the planning function is applied in the manner suggested for the Planning Director's position above.

¹ Local, state, or sectional traditions may result in discriminatory rules respecting local residence, war service, sex, marital status, etc. They have proved detrimental to efficient public service and the establishment of a public-career service

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Junior Planning Assistant. Duties:

1. General: Under immediate supervision of persons in a higher planning grade to assist, in any reasonable way, in the work of the planning unit. Most assignments are of a strictly planning character; but, as the position partakes of the nature of internship in both government work and in planning, assignments may be made in all phases of the unit's operations in order to familiarize the planning assistant with the functions of the planning agency; opportunities should be provided for testing the planning assistant's powers of analysis and his ability to use judgment, and his ability to think in relationship terms regarding the solution of planning problems.

2. Optional required duties: To file map and reference material; to operate adding and calculating machines; to perform elementary drafting; to answer simple inquiries presented by telephone, in person, or by letter.

Qualifications. 1. Imagination and initiative; ability to perform the duties specified above, that is, to collect and to compile data, to prepare charts and base maps, to prepare written material; ability to cooperate. A demonstrated progressive interest in the general field of planning shown by completed work, experience, published studies, etc. is interest in remaining in planning work as a career.

2. Graduation from a recognized institution of higher learning with undergraduate work in one of the following groups of subjects:

- a. Economics, public finance, public administration, public law, or sociology; elective courses in any of principal fields under *b* or *c* below.
- b. Civil engineering, with emphasis on municipal or sanitary engineering; elective courses in any of the principal fields under *a* above.
- c. Architecture or landscape architecture, preferably with emphasis on community planning problems and public housing; elective courses in any of principal fields under *a* or *b* above.

Special credit will be given for training in research methods, for the completion of major studies in any subject closely related to planning, and for graduate work in any of the subjects mentioned

above. No definite amount of experience is required, but experience in planning work is desirable.

TERMS TO BE UNDERSTOOD

<i>caveat emptor</i>	fiscal policy
contour plowing	planning
democratic planning	proration law
erosion	unit pool operation

QUESTIONS FOR DISCUSSION

1. Is it possible to have planning in a democratic society? Is it possible under capitalism?
2. List some of the important things that city planning agencies have done. Do the same for county, state, regional, and national agencies.
3. What are the specific differences you can see between economic planning and a planned economy?
4. What suggestions can you offer for a greater cooperation among the federal, state, and local planning bodies?
5. What are the planning agencies in your community? In your state? What activities does each carry on? What legal powers do they have?
6. What are the qualifications for professional planners? To what extent is planning becoming a profession?
7. What are the minimum activities that should and could be planned in a capitalistic order to prevent major economic breakdowns?
8. To what extent does sound planning depend upon our capacity to predict?
9. What is meant by natural resources? What are the basic natural resources of the United States?
10. What is meant by human resources? To what extent may they be affected by planning?
11. What planning was there in the national government before the establishment of the National Resources Planning Board?
12. What planning was there in your state before the establishment of its official planning agency?

FOR FURTHER STUDY

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DEMOCRACY AND DICTATORSHIP

IDEOLOGIES IN THE MODERN WORLD

Rise of Ideologies. Today as never before, rival ideologies enter prominently and significantly into the daily affairs of mankind throughout most of the civilized world. The presence of so many antagonistic systems of ideas, ideals, and distinct ways of life indicates the intense intellectual ferment occasioned by the marked, rapid, and fundamental changes which are occurring in contemporary life. We are living in an era of crises in economic and political systems, and are witnessing the emergence of new social arrangements. Only in a static society could "isms," that is, systems of ideas, ideals, and ways of life, be absent. The more dynamic a society, the more certain is social unrest. The desire for change and the forces working to produce it are indicative of a need for readjustments. Men throughout the civilized world are increasingly identifying the causes of their unhappiness with unjust social arrangements in society. They are critical of their society, and are susceptible to doctrines which promise a more satisfactory social order.

Ideological Matrix. The demand for change in the social order may find expression in a formula or an ism which in turn may become the basis of a movement promising a fuller realization of human needs, if not social salvation. In time, some of these movements attract disciples, gain strength and momentum, and finally become powerful forces in society. As any particular ism develops power, other ideologies are quick to recognize it as an actual or potential menace to their prestige. They therefore articulate their own isms in opposition. Battle lines are drawn, and efforts are made to check any further invasion of the new intruder. On the occasion of the threat of advancement of a new ism, privileged groups under the existing dominant ideology in a particular society become especially aroused. They labor strenuously to maintain

the *status quo*, that is, the existing arrangements, because they recognize it is to their advantage to do so. After a new ism has displaced an old one, its adherents constitute a new dominant or privileged group. They become ordinarily as intolerant of change as were the leaders of the old social order over which they triumphed. In other words the late radicals become the new conservatives.

An ideology represents a composite of ideas and emotions. No ism is purely intellectual. Each is suffused with emotion. It is the potency of emotions as well as the power of ideas which impart the dynamic qualities characteristic of ideological antagonisms. Since an ism involves basic conceptions of life, it stirs the warmest devotion in its adherents, and arouses their antipathy toward those whose allegiance is to a competing ideology.

Literature of Ideologies. Each of the prominent modern social, economic, and political isms has produced an extensive literature, partly in support of its own beliefs and programs, and partly in denunciation or refutation of conflicting isms. Relatively little calm analysis or genuine objectivity is manifest in much of the materials published by agents of these rival ideologies. The student must be extremely critical in his analysis and evaluation of books, periodical articles, newspaper items, and speeches, which involve ideological discussion. They become potent instruments of social indoctrination and control. As one examines any particular ideology he would do well to keep himself conscious of these three important facts: (1) Each ideology is concerned fundamentally with what it regards as the best possible interrelation of the individual and of society. (2) Each of the dominant isms to which we are exposed today gives us a different version of the age-old problem of reconciling liberty and order, freedom and authority. (3) The fundamental purpose of a considerable part of the literature of isms is not to elucidate or analyze, but either to propagate a particular ideology or to attack rival isms.

No detailed evaluation of the many arguments offered for or against the respective ideologies to be considered can be attempted here. Our concern centers in their major characteristics. The focus of attention is upon the rise, the fundamental ideas, and the central objectives of each. Probably no American will deny the desirability of having the citizens of the United States understand

their own way of life. Some understanding of rival ideologies is also desirable. By knowing them we can arrive at a better knowledge of our own. And in this day of world-wide contact and instantaneous communication, the United States is not and cannot be isolated from the currents of thought which throb in the minds of men in other nations. Foreign isms beat in upon us constantly. The adherents of each believe firmly that the whole world should and will turn to theirs as the best way of life, and labor persistently to consummate its triumph.

DEMOCRACY

Democracy an Ideology. We speak of our American way of life as "democratic." Although not taking the word form, it really is an ism. It possesses all the characteristics of such a phenomenon. The whole pattern of our social order in the United States has been dominated by our democratic conceptions. Hence it is important for us to understand this ism. Although our way of life has many facets, we shall be concerned here only with the rise, meaning, basic tenets, and prospects of democracy.

Rise of Democracy. Democracy, although constituting a political system in ancient Athens,¹ was little followed as a system of life until after the seventeenth century. Its growth accompanied the development of liberalism. By "liberalism" we mean freedom of individual thought and action.² The distinguishing characteristic of liberalism is the great emphasis it places on the importance of the individual. It "posits a free individual conscious of his capacity for unfettered development and self-expression."³ To the liberal "any attempt on the part of constituted authority to exact artificial pressure on or regimentation of the individual in his inner and outer adjustments is an unjustifiable interference, a stultification of his personality and initiative."⁴ The individual, as liberals view the matter, should be as little restricted and coerced as possible. All regimentation is anathema.

¹ See Plato's *Republic* and Aristotle's *Politics*.

² Although the term "liberalism" is used in intellectual, moral, religious, artistic, and other fields, in this chapter it is considered only in its political and economic aspects.

³ "Liberalism," *Encyclopaedia of the Social Sciences*, The Macmillan Company, New York, 1937.

⁴ *Ibid.*

Without the advance of the liberal conception of life it is difficult to see how the democratic pattern could have made progress. Politically, liberalism is tightly laced with democracy. The faith of liberals in democracy is logical, for when the people control the government there can be no governmental restrictions on the individual save as a majority wills such curtailments. The liberal believes "that government is best that governs least," and seeks therefore to keep governmental interferences with individual liberty at a minimum. In economic matters liberalism is associated with the laissez faire conception of economic-governmental relationship. Liberalism emphasizes private initiative and freedom of enterprise. Traditionally it has extolled the capitalistic system.

It is important to realize that in any social system there are always vital interrelationships between the political and the economic spheres. They cannot be isolated from each other. All governmental activity is deeply influenced by economic conditions and activities, and any system of economic life is much affected by political forms and ideals. This interdependence was clearly apparent even in the centuries when liberalism was just emerging.

Rise of Liberalism. The early centuries of the modern era witnessed a great growth of trade and commerce. This economic development created a rapidly growing middle class, which was for the most part barred from playing a role commensurate with its importance in society. This class had needs and ambitions to satisfy. The liberal doctrines it advocated were designed to secure for it that measure of influence and control in society to which it felt itself entitled. The prevailing order against which it launched its attack was characterized by absolutism in government and extensive political interference in economic life.

To break the power of political absolutism the bourgeoisie (middle class) urged the doctrine that no government exercises just powers save as they are given by the "consent of the governed." This "consent" doctrine was expounded by John Locke in England in his *Essay on Civil Government* (1689). The idea that all just governments must rest on the "consent of the governed," a phrase reechoed in our Declaration of Independence, was propagated by able leaders after Locke, both in England and France. This doctrine laid a foundation for the establishment of democratic government.

The great dynamic force back of political liberalism was the

insistent demand of men of industry, trade, and finance for a share in the control of government. What they sought was an economic regime in which there would be freedom from government regulation. The basic principle upon which they relied to effect such a system was that of *laissez faire*,¹ which business men asserted would prove far more beneficent than the then existing economic system, referred to as "mercantilism."² The central and persistent contention of the "laissez-faire-ists" was that the general welfare could best be advanced by permitting each individual to follow his own self-interests. This doctrine was ably presented by Adam Smith in his influential book, *Inquiry into the Nature and Causes of the Wealth of Nations* (1776).³ After Smith came many other powerful advocates of the idea that governmental interference in economic life should be kept at a minimum. Among these was John Stuart Mill (1806-1873).⁴

¹ "Laissez faire" is a contraction of *laissez-nous faire* which means "Let us alone" — government should not interfere with business life. The doctrine of *laissez faire*, then, indicates a belief that economic life should be free from governmental regulation. It opposes state intervention in industry. Under it the function of the state is to maintain order, provide courts, and keep the country secure from foreign invasion. This doctrine arose in the late 1700's and early 1800's as a protest against excessive regulation of economic life by governmental action. "As an influence in affairs, *laissez faire* may be said to have reached" its zenith about 1870, after which time "the current of events moved steadily and increasingly in the direction of collectivism." "Laissez Faire," *Encyclopaedia Britannica*, 14th ed., Encyclopaedia Britannica, Inc., New York, 1932, XIII: 589. "The separation between economics and politics, on which the doctrine of *laissez faire* rested, is an anachronism in the present day world." "Laissez Faire," *Encyclopaedia of the Social Sciences*, The Macmillan Company, New York, 1937.

² The basic objective of the mercantilists was to augment the wealth of their particular country. The wealth of a country they identified with the quantity of precious metals it possessed. Therefore they sought to block the outflow of bullion and induce an inflow of precious metals. To achieve these dual ends they proposed to encourage exports and hamper imports. If a country, in their view, exported more than it imported it would have a "favorable balance of trade," that is, have an inflow of precious metals. To stimulate exports and impede imports necessitated extensive governmental action, on the one hand to promote production in order to swell the volume of exportable commodities, and on the other to erect barriers to the importation of goods. See "Mercantilism," *Encyclopaedia of the Social Sciences*, The Macmillan Company, New York, 1937.

³ At the heart of Smith's exposition of economic life lay these ideas: "The individual, . . . in pursuit of his own gain will strive to produce as much utility as possible and whether as employer or as workmen will be driven by competition to do this as a condition of survival and success in business. The sum of the efforts of all individuals to create the greatest possible amount of wealth will result, if they are allowed to follow their own bent, in the creation of the maximum wealth in society as a whole." "Laissez Faire," *Encyclopaedia of the Social Sciences*, *op. cit.*

⁴ See his *On Liberty*, which is a classic plea for the freedom of the individual.

After prolonged struggle the bourgeoisie became master of the social order, with the result that in political life absolute monarchy gave way to representative government, and in economic life monopolistic mercantilism was supplanted by laissez-faire capitalism.¹ Thus the sphere of the individual was vastly extended.

Meaning of Democracy. The term "democracy" does not describe merely a form of government in which the source of political authority is in the commonality of the citizens. "Indeed it is possible to speak of democracy in every form of social life."² "Democracy" indicates, when employed as a general term, a social atmosphere, an attitude of mind, a philosophy, and a whole culture. Included in it are all the economic and social institutions and arrangements through which a people strives to promote a type of society wherein the best in man can be developed. The very essence of the democratic way of life is a profound "faith in the capacity of man as a rational and humane creature to achieve the good life by rational and humane means."³

Tenets of Democracy. As was the liberalism out of which it grew, democracy is characterized by the importance it attaches to the individual. To it the dignity and worth of the individual are of paramount importance. In such a social order the individual possesses a right to his fullest development and happiness.

A democratic society, moreover, emphasizes equality, especially equality of opportunity for the development of the individual's talents and capabilities. Democracy makes these two declarations: "That all men are to be treated alike in a few respects enumerated by law, the other that the relative worth of any two men in the same state being immeasurable it is simplest and wisest to assume their equality."⁴ Although it is recognized that "men are unequal

¹ For the relation of capitalism to liberalism, see Charles A. Beard, "Individualism and Capitalism" in the *Encyclopaedia of the Social Sciences*, *op. cit.*, Vol. I, pp. 145-163.

For a concise exposition of liberalism, see Harold J. Laski, "Rise of Liberalism" in the *Encyclopaedia of the Social Sciences*, *op. cit.*, Vol. I, pp. 103-124. See also "Liberalism," Vol. V, pp. 435-441.

For a description of the great revolutions of modern times, see Crane Brinton, "The Revolutions," in the *Encyclopaedia of the Social Sciences*, *op. cit.*, Vol. I, pp. 125-144.

² C. Delisle Burns, *Political Ideals*, 4th ed., Oxford University Press, London, 1929, p. 279.

³ Carl Becker, "Some Generalities That Still Glitter," *Yale Review*, 29: 667, June, 1940.

⁴ Jacques Barzun, *Of Human Freedom*, Little, Brown & Company, Boston, 1939 p. 28.

in physical, mental, and moral endowments, each should be treated by the state as of equal social and political value.”¹ That this attitude is significant is attested by the fact that a social order with this ideal “will differ materially from a society in which birth or class determine a man’s social position and political weight. . . .”²

One of the most salient characteristics of democracy is the great emphasis it places on freedom. This stress is logical, since its basic concern is the greatest possible development of the individual for whose growth liberty is essential. The individual must, it holds, be free to think, act, and create, since “a large measure of liberty is vitally necessary to the full development of human capacity.”³

Democracy encourages the ceaseless search for truth. In this quest the individual must be free and free to take advantage of the results obtained in that search. Democracy insists that only when men have an opportunity to express and criticize all opinions is there the best possible chance of discovering truth. Democratic peoples are wont to point out that many evils — witchcraft, human slavery, belief in disease as punishment, dueling, fiendish tortures, among a host of others which might be cited as examples — have passed from modern life because of freedom of expression. They argue that “The peoples who have enjoyed an exceptional degree of freedom are those who have contributed most to the advancement and the welfare of mankind.”⁴

While people under a democratic regime are free to promote any changes in society which may be desired, they are at the same time assured that no sweeping or violent modifications in their social order can be imposed upon them save with their consent. The basic control in a democratic society is public opinion, in the formation of which all are to participate. Under democracy many agencies expressing all sorts of views function in the molding of public opinion. In the United States, for example, besides extensive radio facilities, “there are about 2100 daily newspapers, 13,000 newspapers in all, and 19,000 periodicals of all kinds.”⁵

¹ Leonard Wolf, *After the Deluge*, Penquin Books Limited, Harmondsworth, Middlesex, England, 1937, p. 209.

² *Ibid.*, p. 210.

³ Louis Le Fevre, *Liberty and Restraint*, Alfred A. Knopf, New York, 1931, p. 206.

⁴ *Ibid.*, p. 206.

⁵ John N. Andrews and Carl A. Marsden, editors, *Tomorrow in the Making*, McGraw-Hill Book Company, Inc., New York, 1939, p. 67.

Democratic peoples realize that there can be no genuine public opinion without freedom of thought and expression.

Those who live under a democratic social order are especially zealous about political, economic, academic, and religious freedom. Recognizing the preeminence of the state as an agency of social control they regard political freedom as the basis of all freedoms. Political freedom consists of the right to participate in the choice of those who enact legislation and execute the law, and the right to oppose governmental officials and policies either through individual or political party effort. In a democracy there are always at least two political parties; under dictatorship there is but one. Aware of the vital bearing of things economic upon their social and political lives, a democratic people is alert to maintain the greatest possible liberty in the realm of economic activities. Cognizant of the vital significance of the function of the educational system in such a social order, such a people perceive the importance of academic freedom, that is, the freedom to inquire, to teach, and to learn. Realizing the importance of religion in a social order, a democratic people insists that the individual shall be free to adopt, practice, and support whatever religious belief he prefers.

Civil Liberties. A people living under a democratic social order are zealous for the establishment and maintenance of civil liberties. Realizing that "eternal vigilance is the price of liberty," they are watchful lest the freedom they enjoy be curtailed. The very liberties which a democracy grants provide opportunities, however, for special groups to create potent instrumentalities with which to undermine the freedom of others. The American people have sought by incorporating their most important liberties in Bills of Rights in federal and state constitutions to afford the greatest possible safeguard against encroachments upon such liberties. Our civil liberties include freedom of religion, assemblage, petition, and press. We also possess a number of important safeguards for life and property in the judicial process, among which, for example, are habeas corpus, trial by jury, and that life, liberty, and property shall not be taken away from the individual except by "due process of law."¹ So well established are our rights to our many liberties

¹ It is significant that five of the eight Amendments to the Constitution of the United States which constitute the Federal Bill of Rights have to do with the judicial process. See the Fourth, Fifth, Sixth, Seventh, and Eighth Amendments to the Constitution of the United States.

that we Americans commonly take them for granted, like the air we breathe, until they are threatened.

There are occasions when even a democracy may find it necessary to limit civil liberties. In times of great social upheavals and of war the maintenance of our liberties becomes a perplexing problem. Then the need for unity of thought and action is especially pressing, and the customary exercise of liberty often seems to endanger the common welfare. The guaranteed rights to our liberties are never absolute or unlimited rights. In time of war, for instance, it is extremely difficult to determine how much freedom should be permitted to conscientious objectors (to military service), enemy aliens, fifth columnists, and agents bent on fomenting espionage and sedition. It is always easy to extend freedom to those who agree with us and hard to observe the liberty of minorities to oppose a majority program or policy, especially when a minority seems, in the majority view, to be menacing the common weal.

Spread of Democracy. Democracy spread with the advance of liberalism of which the rising middle class was the chief exponent. As the bourgeoisie came into the ascendancy in one country after another, it democratized governments. The developments in this direction during the nineteenth century were phenomenal. As the political offspring of liberalism democratic government was established ever more widely and completely. Liberalism's economic progeny, *laissez faire*, democracy's twin sister, under a tremendously dynamic and rapidly expanding capitalism, became the dominant philosophy of the business class, whose general influence in society mounted strikingly as industrialization grew apace in the world. By 1900 the principles of liberalism both in political and economic life either prevailed or were in the ascendance in most civilized countries. Historians, when they surveyed the nineteenth century with its remarkable developments, were wont to point out that liberalism, the parent of democracy, should rank with nationalism and industrialization as the great trinity of forces which molded the life of that period.

Although the home of liberalism was in England which developed *laissez-faire* economics and parliamentary government, and in France which rang after 1789 with the great democratic slogan "Liberty, Equality, and Fraternity," it was in the United States

that this ideology enjoyed its most complete triumph. Individualism, the child of liberalism, reached its fullest flower here. No people were ever more zealously devoted to political democracy or more enamored of the laissez-faire ideal of economic life than were the Americans. Those who challenged liberalism in the United States constituted a much smaller minority than in any other country with liberal traditions. By the advent of the present century, the democratic way of life, owing chiefly to the vast strides of political and economic liberalism in the previous century, had become the dominant ideology of the civilized world. Its appeal was felt increasingly even in such traditionally absolutist regimes as existed in Russia, China, and Japan.¹

Decline of Democracy. Hard on the heels of the signal triumph of the democratic way of life have come rather extensive retreats. The explanation for this recession, although involving a number of phenomena, is to be found chiefly in the inability of democratic peoples to modify their political and economic institutions rapidly enough to keep pace with the celerity of change in the material aspects of life. When an ideology fails to meet the realities of life, to satisfy the needs of the people over whom it holds sway, there occurs inevitably a shift away from it and a turning toward other basic principles which promise a larger measure of satisfaction. It is important to note that the weaknesses of democracy have been more apparent in the economic than in the political realm. Democracy did not decline because of any basic unsoundness in its political principles, or any considerable dissatisfaction with its operation in the political field, but rather on account of its inability to provide the economic controls necessary in twentieth-century society. The economic system operative in any particular social order affects the people living under it in so many vital ways that such an order cannot afford requisite satisfaction of community needs merely by the maintenance of a political regime, however excellent.

That democracy has been partly unable to translate its doctrines in the economic field into practice is not by any means to be understood as an inherent defect. Its inefficiency derives fundamentally from the dominance of individualism. It is indeed ironical that

¹ In 1889 a constitution was promulgated in Japan. Russia in 1905 convened the Duma (representative assembly). In 1912 a republic was proclaimed in China.

the very economic liberalism which played such an important role in the rise and early spread of the democratic way of life should in the twentieth century be the basic cause of its decline. The doctrines and ideas of economic liberalism, founded as they were on extreme individualism, and although proving reasonably satisfactory when applied under earlier conditions, have increasingly demonstrated that they are inadequate in modern, complex, interdependent, industrial society. Economic liberalism afforded capitalists freedom from social control, that is, governmental regulation. This liberty they are naturally eager to maintain. But it is clear that in the twentieth century the wide traditional freedom of our economic system from social control may not advantageously or even safely be continued. The maintenance and promotion of the general welfare require that the economic liberties of the individual be further curtailed. Economic inequalities can be so great and economic pressure so potent that they undermine the very foundation of the democratic system, and make of it largely a mockery. "A political democracy cannot function properly where differences in economic power are so great that one group can determine the weal or woe of another by non-political means."¹

Democracy is increasingly challenged by several rival ideologies whose influence and appeal are expanding. They have advanced beyond the stage of discussion and have entrenched themselves in the actual control of national life. Already several countries have turned from the democratic way of life and have embraced regimes which are the very antithesis of democracy. Furthermore, today in virtually every democratic country there are organized groups, with varying degrees of influence, actively spreading antidemocratic propaganda. Some of these contemplate the actual overthrow of the democratic way of life. At present every democratic government feels impelled to watch carefully the activities of such organizations.

SOCIALISM

Meaning of Socialism. Socialism is an ideology which became the first important challenger of the developing nineteenth-century democracy. Since it espouses the extension of democratic practices to all phases of social life, Socialism is regarded by some to be wholly

¹ Andrews and Marsden, *op. cit.*, p. 35.

consistent with democracy, and indeed to represent democracy in its most genuine form. While there are many varieties of socialistic doctrine, Socialism generally does not propose to enthrone a dictator. Civil liberties are to be established and maintained. But Socialists have been frequently regarded as enemies of democracy, particularly because they urged a vast extension of social control over economic life, and thus ran afoul the principles of nineteenth-century economic liberalism.

The roots of socialistic thought lie deep in the past. Although the word "socialism" gained currency only in the last half of the nineteenth century, many of the ideas associated with the term have a far longer history. Socialist elements are to be found in the Mosaic law, in the writings of Amos, Hosea, and Isaiah, in portions of the Gospels of the New Testament, and in the writings of some medieval scholars.¹ The modern "socialist doctrines aiming at the collective control of the means of production in the interests of the workers . . . date from the rise of the factory system, which was one of the products of the Industrial Revolution."²

No other ideology has occasioned as much controversy during the last 100 years as has Socialism. Hundreds of books have been written in praise or in condemnation of its principles. Since there are many types of socialism, it is difficult to define the term with precision, but common to all variants of this ideology is the aim to substitute collective ownership and operation of industry for the present competitive system. It is essentially "a doctrine and movement aiming at the collective organization of the community in the interests of the mass of people by means of common ownership and collective control of the means of production and exchange."³

Socialism condemns the capitalistic system of production.⁴ It does not share the traditional devotion of democratic people to property rights, private initiative, free competition, and the laissez-faire philosophy in general. Socialists seek to eliminate the profit motive. They want a "state of society in which social causes of wealth would be allowed to have social results."⁵ Their contention is that, "The logical alternative to capitalism is planned production

¹ "Socialism," *Encyclopaedia Britannica*, *op. cit.*

² *Ibid.*

³ *Ibid.*

⁴ "Socialism" should not be confused with "anarchism." They are as far apart as the poles. While anarchism seeks to eliminate entirely governmental control of society, Socialism calls for a vast increase of state control over the social order.

⁵ Burns, *op. cit.*, p. 269.

for use; not for the private profit of owners — increasingly absentee owners — of our national resources and the great means of production and distribution.”¹

Socialists believe the state is a necessary social organization which should be afforded sufficient power to coerce whenever and wherever necessary to maintain and promote the general welfare. Far from rejecting democracy, Socialists claim to make democracy work functionally by enfranchising citizens in a democratically controlled industry as well as in politics. They insist that without social control over the economic processes in society, mere political democracy must necessarily be largely a farce. In their view, only when the masses can participate in the guidance of economic life, when industrial absolutism and gross inequalities of wealth and status are abolished, can the interests of the common man be safeguarded and promoted, and democracy be made a genuine reality.

Rise of Socialism. Modern Socialism arose as a revolt against economic conditions which developed under economic liberalism. As the Industrial Revolution unfolded, there occurred an ever wider separation of property and labor. Wealth increased tremendously and became concentrated in relatively few hands. The factory system created a vast increase in the number of the proletariat, that is, propertyless workers, dependent upon their wages for a livelihood. Along with this development came a marked advance in the literacy of the workers in industry. Increasingly they were able to read the discussions of intellectuals who championed their interests. The workers were increasingly drawn into organizations of their own, and in many countries developed a high degree of class consciousness. Socialism developed in proportion to the loss of faith in the efficacy of the laissez-faire system, and the failure of the existing order to meet the elementary needs of masses of people who had already become critical of the *status quo* because their hopes for remedial measures had been shattered.

The Socialist movement since the advent of the Industrial Revolution has undergone a significant evolution.² Here only its

¹ Andrews and Marsden, *op. cit.*, p. 129.

² In the nineteenth century several different kinds of socialism, each with its particular differentiation and emphasis, developed. For example, there appeared Utopian Socialism, Christian Socialism, Guild Socialism, Scientific Socialism, and Fabian Socialism. For a comprehensive treatment of socialist thought, see H. W. Laidler's *A History of Socialist Thought*, 1927.

three outstanding developments may be pointed out. In the first phase no attempt was made to establish a general or nation-wide regime embodying socialistic principles. Socialists sought rather to build social units, that is, local communities, which would, they hoped, demonstrate the efficacy of the mode of life that they urged. Accordingly, socialistic colonies were established, several in the United States. But all these experiments failed.

The second phase of the general socialistic movement was marked by the decision to be less idealistic and to bring about the complete establishment of the desired social order by an evolutionary process. It was proposed, through the use of the ballot, to secure the full socialist program piecemeal, that is, by inducing society to adopt one socialistic policy, then another, and then another. This was the program of the Fabian Socialists in England from the last quarter of the nineteenth century on. Socialism grew rather rapidly in the European countries. By 1914 in almost every country there was a Socialist or Labor Party with representatives in legislative halls. In Germany just before the First World War the Socialist Party polled a heavier vote than any other. In the United States, however, the Socialist Party has never been able to garner more than a very small percentage of the total vote in any election.

The third main phase of the Socialist movement is seen in the development of Communism, an insurgent movement against Fabian Socialism, which we shall examine presently. Besides Communism, its own child and most bitter foe, Socialism is opposed by Fascism, capitalism, and traditional democracy. While it has the satisfaction of seeing all democratic countries in effect adopting its policies increasingly through their many and marked extensions of the sphere of the state in economic life, nevertheless capitalism and the laissez-faire-ism of democratic peoples are still powerful after many years of effort by the Socialists to bring about their demise. But the Socialists, as is characteristic of adherents of any particular ideology, seem to be determined to continue the struggle for the general establishment of their way of life.

DICTATORSHIP

Rise of Dictatorship. One of the most astounding developments of the last quarter-century has been the growth of dictatorship. The recrudescence of this form of social order indicates clearly a

decline in the appeal of democracy. As one country after another turns to dictatorship a diminution of the prestige of the democratic way of life inevitably occurs. In the light of history it is impossible for us to regard the rise of dictatorships as other than a backward step in the life of mankind. If one is interested in discovering the cause of this retrogression, he will have to take account of the consequences of the First World War. That terrific struggle created distressing conditions which were significant factors productive of contemporary dictatorships. The age-old governmental system in which all power is lodged in an autocrat tends to become dominant when the people feel heavy pressures, are greatly distracted, confused, disillusioned, or frustrated. Then they turn to a leader who gives promise of deliverance from their plight.

Meaning of Dictatorship. The term "dictatorship" indicates a condition in which a people live under the rule of a dictator in whom supreme authority is vested. Historically, in ancient Rome for example, an individual was given this supreme power, as a part of the constitutional system, to enable the state to weather some crisis. When the emergency had passed, this authority was surrendered. But our contemporary dictators did not secure their position as dictators under any provision of the existing political system; nor do they regard their power as of a temporary character. Today a state having a dictatorship is often referred to as being "totalitarian." Such a state exercises entire, complete, total authority over its subjects and controls the whole social, political, and economic life of the country for the promotion of its aims.

Totalitarianism may be described as a state of affairs in which the government of a country is not responsible to those whom it governs, and where it assumes the right to extend its activities into every human sphere; there is no reserve for the individual in which he is protected against governmental encroachments.¹

Characteristics of Contemporary Dictatorships. Two basic ideas color every aspect of social life under contemporary dictatorships. First, the state is of paramount importance and its head possesses all authority. Second, the individual can find his largest fulfillment in losing himself in the life of the state; discipline is more important than liberty. The great social values under such a regime are "authority and obedience, not freedom and individu-

¹ R. M. McIver, M. J. Bonn, and R. B. Perry, *The Roots of Totalitarianism*, The American Academy of Political and Social Sciences, Philadelphia, 1940, p. 9.

ality.”¹ In dictatorships the central objective “is to produce a well-regimented mass obedient to the discipline imposed from above.”² They deny that “differences can live together, differences of faith, differences of opinion, differences of thought.”³ To secure the uniformity desired, regimentation of a comprehensive and intensive character is persistently practiced. Even beliefs, personal behavior, and tastes — in short, every aspect of the individual’s life is under the dictation of the state. To enforce its demands an extensive secret police is maintained. Arbitrary arrest is constant, and terroristic practices are customary.

Little if any attempt is made in dictatorships to appeal to or develop the rationality of men. Intellectual slavery is demanded. Thus the desired social order is maintained without any exertion to afford evidence for support of policies and practices. The dictator being all-wise and all-powerful, it is the duty of the individual to be in complete submission. He must hope that the head of the regime will be benevolent. If he is otherwise, the individual is utterly helpless. It is interesting to note, however, that each contemporary dictator always poses as a friend of the people. Present-day dictators do not overlook the importance of popular support. And “The mass of the people dote on one who by a mystery of magnetism inspires respect, makes them feel great through their kinship with him, their national symbol.”⁴

Twentieth-century dictators foment a rabid nationalism. “Hatred of the foreigner is something on which all classes may be unified and stirred to an emotional pitch sufficient to divert them from consideration of loss of liberty.”⁵ They cultivate the conception of “nation against nation, nations separate in all respects that matter, its own a proud nation, exclusive, complete, self-sufficient, and self-righteous.”⁶

The three leading dictatorships of our present-day world are: in Russia, Communism; in Italy, Fascism; and in Germany, Nazism (or National Socialism).⁷

¹ Wolf, *op. cit.*, p. 235.

² Harold J. Laski, *The Rights of Man* (pamphlet), Macmillan & Company, Ltd., London, 1940, p. 16.

³ McIver, Bonn, and Perry, *op. cit.*, p. 5.

⁴ “Dictatorship,” *Encyclopaedia of the Social Sciences*, *op. cit.*

⁵ *Ibid.*

⁶ McIver, Bonn, and Perry, *op. cit.*, p. 7.

⁷ Since 1919 other countries of Europe have been under complete or partial dictatorships, for example, Austria, Greece, Hungary, Poland, Portugal, and Spain.

COMMUNISM

Rise of "Dictatorship of the Proletariat." The most fundamental revolution occurring in the modern era began in Russia in 1917. With the overthrow of the Czarist regime "there ensued the most revolutionary and far-reaching social upheaval of modern times."¹ This revolution was the more remarkable in that one form of dictatorship superseded another. It was not a change from a democratic social order to a dictatorial regime. One dictatorship merely supplanted another — that of the czars, for that of the proletariat. The basic change which occurred was that the capitalistic organization of Russian society was overthrown and a new economic system established.

The Russian Revolution of 1917 was accomplished under the leadership of a group of communists, called "Bolsheviks," led by Nicolai Lenin. The Bolsheviks, taking advantage of conditions which developed during the First World War, and gaining ascendancy within the socialist movement in Russia, seized power and set up a "dictatorship of the proletariat." The new regime "proceeded at once to expropriate the landlords and the bourgeoisie, to abolish private property in real estate and the means of industrial production, to distribute the land to the villages, to establish workers' control in the factories, mills, and mines, to lay plans for a socialized economy."²

The people of all other countries were deeply shocked and much alarmed by this development. A world-wide crusade to "Save the World from Bolshevism" was at once launched, and in the years since 1917 a vigorous opposition to Communism has stirred the entire world. Never since the French Revolution of 1789 had the Western world been more universally aroused. Feeling against the new regime was greatly augmented at the time because of the effect it had on the course of the First World War. Germany helped to provoke and utilized the revolution to its own advantage. It made peace with Russia, and then threw her heavy forces, previously engaged in fighting Russia, to the western front. The Allies and the United States proceeded to blockade Russia. They supported counterrevolutionary efforts within the Union of Soviet

¹ Frederick L. Schuman, *International Politics*, 2nd ed., McGraw-Hill Book Company, Inc., 1937, p. 456.

² *Ibid.*

Socialist Republics (U.S.S.R.), as Russia has called herself since the revolution. They supplemented their blockade and interventionist efforts with the encouragement of terrorism and sabotage.¹ But under the leadership of Leon Trotsky the military forces of the U.S.S.R. triumphed over both domestic and foreign opposition. During and after the establishment of the new regime in Russia Communism spread to a number of other countries of Central Europe where it was suppressed by military force and terroristic tactics.

Socialism vs. Communism. Every social order is founded on certain fundamental conceptions which afford a general pattern for the particular society. The ideological basis of the present Russian regime is found in the doctrines advocated by the influential socialist leader, Karl Marx. Originally the terms "socialist" and "communist" were employed interchangeably. The basic document of modern Socialism, for example, was called *The Communist Manifesto* (1848).² But an ever widening breach developed between the two groups of collectivists, Socialists and Communists. With the Russian revolution in 1917 came a complete split between them, since which time they have been bitterly antagonistic.

Communism "is distinguished in a technical sense from socialism, which means the social ownership of productive goods, in that it generally includes ownership of some or all forms of consumers goods as well."³ While the Communists would have a fuller measure of collectivist ownership than would the Socialists, the most fundamental difference between Communism and Socialism lies in the method by which the collectivist regime they both seek to establish is to be created. The Socialists rely upon peaceful, orderly persuasion to win the acceptance of their program — an evolutionary plan. The Communists, denying that the Socialist

¹ "The Allied and American intervention in the Russian Civil War (1918-1921) was designed to overturn the Soviet regime and replace it by a government disposed to pay its debts, recognize foreign property rights, and make Russia safe for capitalism. It was beaten back by the Red Army and failed to achieve its purposes." Schuman, *op cit.*, p. 296.

In 1918, President Wilson, without a declaration of war by the United States, dispatched a military force to Archangel, a port on the White Sea which is an arm of the Arctic Ocean.

² It was written by Karl Marx in collaboration with Friedrich Engels.

³ "Communism," *Encyclopaedia of the Social Sciences*, *op. cit.* Here is found a history of communism from ancient times. See this source for a history of communist parties, under "Communist Parties."

method can ever bring about the overthrow of capitalism, advocate the establishment of their social order by a revolutionary procedure, including violence if necessary. Karl Marx stressed strongly the class struggle. His conviction was that under capitalism the workers are exploited. He proposed to organize the proletariat so that it could overthrow capitalism and set up a more beneficent social order. He regarded the state as a product of the irreconcilability of class antagonisms.¹ Marx believed that the state in liberal societies is an instrument used by capitalists for the exploitation of the wage earners. He urged the establishment of a dictatorship of the proletariat.

Communist Regime in Russia. Today Russia under its totalitarian regime presents all the inevitable phenomena of any dictatorship. Joseph Stalin, the present dictator, exercises vast powers. Individual liberty is ruthlessly suppressed. An omnipresent secret police, the "Ogpu," is vigorous in ferreting out anyone who opposes the regime. Extreme regimentation of all phases of life is enforced. The most fundamental difference between the Russian social order and that which exists in all other countries is its enmity of private profit.

When the revolution of 1917 occurred most peoples of the world were confident that the new regime could not possibly function and its early downfall was then and in subsequent years repeatedly and persistently predicted. But it still prevails under its symbol of the hammer and the sickle. While democratic peoples find much in the U.S.S.R. which they strongly condemn, yet many worthy achievements have been attained. For example, material production has been increased, industrialization stimulated, the death rate reduced, and literacy promoted. In contrast with the backwardness of the absolutism of the czars, which it displaced, it has fostered the raising of the level of life of the masses both materially and culturally.

The Spread of Communism. The adherents of the communistic ideology, like those of other ways of life, hope and labor for its extension. The U.S.S.R. has encouraged the spread of Communism throughout the world. There are Communists in every country,

¹ Lenin developed the doctrine of the "withering away" of the state, which would, he held, have no necessary function when the class struggle was ended by the abolition of the capitalistic system. See his *State and Revolution* (1918).

and most of the Communist parties of the world were, until recently, unified in a world-wide organization known as the "Third International" with headquarters in Moscow. "The strength of the Communist movement outside Russia varies greatly in different countries, being greatest wherever economic distress is most acutely felt."¹ Probably in no country is it weaker than in the United States.

Theoretically the dictatorship in Russia is but temporary. By the Communists the period of dictatorship is regarded as a "transitory stage, in which a free democratic expression of will would lead to the victory of the counterrevolution, in view of the greater mobility and economic strength of the former ruling classes."² Only, they hold, when their regime is fully established is the expression of popular will and representation of the whole people possible.

Communists do not reject the current conceptions of democracy because they believe in the superiority of the few, but because they believe the phrases of democracy bear no relation to present realities. True democracy is held to be unrealizable in capitalistic society because of the fundamental helplessness of the propertyless man. . . .³

The Communists believe that when their system is well established "no one will want to change it," and "then liberty can be given back to the people."⁴ As one of the ideologies of the contemporary world, Communism must compete with two formidable foes, democracy and Fascism.

FASCISM

Rise of Fascism. In 1922 Benito Mussolini established in Italy a dictatorship which has since dominated that country. His regime was called "Fascism," a term derived from the Italian word *fascio*, which means a "bundle" or "bunch." The Fascist symbol is the rods and ax of the lictors of ancient Rome which Mussolini declares betoken unity, strength, and justice. His followers adopted the term "Fascism" to indicate the close union of the disciples of the movement. This dictatorship was set up ostensibly to forestall the

¹ "Communism," *Encyclopaedia Britannica*, *op. cit.*, Vol. VI, p. 136.

² *Ibid.*, p. 136.

³ *Ibid.*

⁴ Lyman Bryson, *Which Way America — Communism, Fascism, Democracy?* The Macmillan Company, New York, 1939, p. 6.

transformation of a liberal social order into socialism or communism, which the Fascists maintained was imminent. Fascism, which claimed to come to the rescue of the *status quo* to save the country from radicalism, however, adopted the technique of Communism — dictatorship, not of the proletariat but of those interested in preventing a rise to power of the proletarians.

Fascism arose out of the adverse conditions which prevailed in Italy after the First World War of 1914–1918. After this titanic struggle many among the Italian people felt that although they had fought on the side of the victors, they had been deceived and robbed of the spoils of victory. An atmosphere of disillusionment, despondency, and despair enveloped the country. The people became doubtful of the adequacy of the democratic process to meet their grave circumstances. Communistic propaganda flooded the land. Economic conditions were highly unfavorable. There was unemployment, industrial stagnation, and economic warfare. All felt insecure: the masses for their livelihood, the industrialists and the bourgeoisie for the profits and privileges of the existent social order which might be overturned by a mass uprising. Mussolini promised suppression of all radicalism. Some elements among the lower classes looked to him for deliverance from their adversities; those who were concerned for the maintenance of the *status quo* were willing to support him, for he promised to suppress Communism; whereas those who were frustrated in their national pride and imperialistic ambitions were attracted by the promise Mussolini afforded them of a greater and more powerful Italy. These political, economic, and psychological conditions formed the seedbed of Fascism.

Principles of Fascism. Fascism does not exemplify any well-integrated principles of social life. It is opportunistic, although like most militant ideologies it clothes its aims in what purports to be a consistent program. Under it such ideas, doctrines, and emotions are fostered as will promote the development of the social order desired. We may obtain an overview of this ideology by observing the political conceptions, the economic pattern, the role of the individual, and the general factors of social significance stressed by it.

Political Conceptions of Fascism. Dominating all political conceptions of Italian Fascism — the very keystone of its whole

pattern — is the idea of an all-powerful state, which is constantly glorified. The merit of a “dynamic” government is continually extolled. To achieve a unified nation the state practices regimentation to a degree which seems intolerable to democratic peoples. Fascism builds all around the idea of reliance upon a gifted leadership, which centers in the *Duce* (duke), the dictator. It operates through a one-party system, upon whose members rests the unqualified duty of obedience. This party is under the absolute control of the head of the state. All public policies are determined by the dictator, and the whole machinery of government, including the whole civil and military personnel, is under his control. The entire political system rests upon force rather than consent.

Fascism holds democratic government in great contempt. It heaps scorn upon the idea of majority rule. Both the theoretical premises of democracy and its practical applications are summarily rejected. Democracy is declared to be hopelessly cumbersome and thoroughly inefficient. Effective political action, it holds, can come only through the head of the state who is alleged to possess an extraordinary capacity for leadership. Fascists believe, “Rather can a camel pass through a needle’s eye than a great man be brought out by means of election.”¹

A militant, rampant nationalism runs through every political activity of the fascistic state. It “believes neither in the possibility nor in the utility of perpetual peace. War alone brings up to their highest tension all human energies and puts the stamp of nobility upon the peoples who have the courage to meet it.”² Italian Fascism has used talk of war as a stimulant to the masses, thus employing patriotic motives of self-sacrifice instead of the appeal to incentives to personal improvement which in such a regime would be futile.

Economic Pattern of Fascism. Italian Fascism on the economic side established a system of state capitalism. It did not seek to abolish the capitalistic system as does socialism and communism; nor did it approve the *laissez faire* doctrine of economic liberalism practiced by democratic peoples. In the absence of a well-developed

¹ Horace Taylor and others, *Contemporary Problems in the United States*, Harcourt, Brace and Company, New York, 1936, Vol. II, p. 395.

² Michael Oakshott, *The Social and Political Doctrines of Contemporary Europe*, Cambridge University Press, London, 1939, pp. 170-171.

theoretical philosophy, in practice Fascism has greatly modified the traditional capitalistic pattern in Italy on an opportunistic basis. With the advent of Fascism in Italy the power of the state over economic life was extended to a degree unknown hitherto in any country under the capitalistic system. "For Fascism the state is an absolute before which individuals and groups are relative. . . . It is the state alone that can solve the dramatic contradictions of capitalism."¹ Insofar as Fascism has an economic program it is "to force national cooperation on the basis of existing inequalities and maintain it by force."²

Fascism in practice means "the rigid control of all economic activity by private monopolies supported by political dictatorship. All competition disappears, almost as completely as under Communism, but private property and profit remain the bases of business enterprise."³

Under the Italian dictatorship no hesitancy is manifest in regimenting all economic life; capitalists as well as laborers are under state surveillance. The state reserves the right and is constantly ready to intervene in economic processes wherever and whenever it deems any public interest is involved. The partnership of capital and labor is stressed, and no conflict between them is tolerated. Labor and industry are organized into "corporations" which are state-controlled and membership in which is compulsory. Any propagation of the ideas of class struggle is vigorously suppressed. The need for national self-sufficiency is constantly urged.

Role of the Individual under Fascism. The sphere of the individual in the fascistic order is narrow indeed. As compared with one living in a democracy, the Fascist citizen has few rights and scarcely any liberty. "The social program of Fascism is to array society into fixed classes and keep it in that order by denying freedom of thought, speech, and press."⁴ Mussolini has sneeringly referred to the "putrid corpse of liberty." Under Fascism "all forms of human freedom, of the liberty of man, of the rights of man, are obliterated."⁵ The Fascist is expected to live for Italy. His duty is to lose himself quite completely in the state. He is expected

¹ Oakeshott, *op. cit.*, pp. 176, 177.

² Alfred J. Snyder, *American Purpose*, The Declaration Press, Philadelphia, 1937, p. 337.

³ Schuman, *op. cit.*, p. 734.

⁴ Snyder, *op. cit.*, p. 337.

⁵ Andrews and Marsden, *op. cit.*, p. 103.

to be happy under discipline, believe what he is told, and become a cog in the nation's machine.

General Points of Fascist Emphasis. Certain general points of emphasis in Fascism may be noted. Liberalism, Socialism, and Communism are to be resisted energetically. Antagonism to each of these isms is fomented incessantly. The necessity for gifted leadership is constantly emphasized. The essentiality for an elite group and for hierarchy in society is endlessly stressed. Fascism gives great emphasis to the importance in life of order, discipline, and work. The primacy of public concerns over private interests is constantly urged.¹ This reaches into every institution of social life including even the family, which also must serve the interests of the state.

NAZISM

Rise of Nazism. In 1933 a dictatorship was established in Germany. This social order is referred to as "Nazism," a term derived from "Nazi," which is in use to designate a member of the German National Socialist Labor Party, the head of which was Adolf Hitler, who in the new system became the "Fuehrer" (leader) — the dictator. The symbol of Nazism is the swastika, in disparagement referred to as the "crooked cross."

Nazism in Germany, just as Fascism in Italy, was the child of national adversities. Central in the total and complex situation was the inability of the existing order to function satisfactorily, and the success of its opponents in persuading a substantial section of the people that Nazism could lead them out of the deep morass in which they found themselves. The war which ended in 1918 produced conditions, psychological, political, and economic, of the gravest character. At the end of the war the regime of the Kaiser had collapsed. The Weimar Republic, designed to afford a larger measure of parliamentary government than Germany had hitherto enjoyed, was instituted. It probably would have experienced difficulty even had conditions been normal, for the roots of democracy were not deep in the social soil of Germany. It has even been asserted that the national psychology predisposed the Germans to entrust themselves to a dictatorial regime. Through

¹ For an argument for Fascism by an American, see Lawrence Dennis, "Is Fascism the Way Out?" in Andrews and Marsden, *op. cit.*, pp. 106-124.

a number of their scholars, who attained great prestige, the glories of the state had been fervently extolled. In a normal social atmosphere political liberalism would have found it hard indeed to gain sufficient support for healthy growth. But the conditions in Germany in the years following the First World War were highly abnormal.

The gravity of the general situation of the German nation in the 1920's beggars description. Germany felt much impoverished. The war had swept away extensive investments and trade. A huge indemnity was levied on the nation.¹ The necessity of accepting the Versailles Treaty of 1919 was deeply resented. Defeat rankled greatly in nationalist hearts. A deep sense of frustration was keenly felt. Adverse economic conditions caused the lower income classes to feel sharply their lack of security. The rapid spread of communism in Germany thoroughly alarmed the upper and middle classes who turned to the Nazi party and Hitler, who promised to uproot this menace. The Nazis in their propaganda held the Weimar Republic responsible for the onerous Versailles Treaty, from the bondage of which they promised deliverance.

The Nazi appeal to German nationalism was most effective. Its promise of dynamic leadership and vigorous action, both alleged to be impossible under parliamentary government, and its assurance of a quick and extensive expansion of national power and prestige, carried the day. As soon as Nazi domination was attained, the Weimar Republic was consigned to oblivion and a totalitarian regime was inaugurated.

Characteristics of Nazism. The attitudes, ideas, and principles of Nazism in Germany are very similar to those we observed above as true of Fascism in Italy. The general pattern is identical — authoritarian, a system of state capitalism, and fanatical nationalism.

A prominent tenet of Nazism, but until recently little emphasized in the Fascism of Italy, is that only those who are of pure "Aryan" blood are full members of the community.

This doctrine has been the occasion of the anti-Semitism of the Nazi regime. It partially explains, but does not by any means justify, the savage treatment of the Jews in Germany since the advent of the dictatorship. One of the prominent

¹ Although only a small fraction of the indemnity was paid, and although Germany received huge loans from abroad, nevertheless economic life was seriously dislocated.

features of Nazism has been the constant and ruthless persecution of Jews. Germans are taught that the Aryan race is the creator of civilized culture and that Jews are its destroyers. All the misfortunes of Germany in her past and present are officially and unreservedly attributed to Jewish penetration into the pure Aryan blood and culture.¹

Therefore the intermingling of Jews and Germans is violently opposed. This is the racial doctrine of Nazism:

The German race is the noblest of all races; its purity must be safeguarded at all costs. It is entitled to dominate all others; by so doing it gives the world a higher culture than any inferior race can do.²

The political system of German Nazism is quite identical with that of Italian Fascism. The glorification of the state is a Nazi obsession. Its primacy in everything must be absolute. At its head is the omniscient and omnipotent *Fuehrer* who makes possible the fulfillment of the mission of the German race. Democracy is constantly ridiculed. Of late Hitler's favorite derogatory phrase for the democratic countries seems to be "plutocratic democracies." The Nazi regime is bellicose. It comprehensively and intensively cultivates strong nationalism.

In the realm of economic life, too, the Nazi pattern and practice are much like those of Fascism in Italy. Nazism does not attempt to overthrow capitalism but does, in the interest of the furtherance of political and social life, subject it to far more minute regulation than do liberal social orders. Hitler holds, "The duty of the state is to provide the necessities of life and not to secure the highest possible rate of interest for capital."³ He has decreed that "Usury and profiteering and personal enrichment at the expense of, or the injury of, the nation shall be punished with death."⁴

Under the totalitarian system of Nazism the individual is narrowly restricted. He has no liberty or civil rights comparable to one living under democracy. Freedom of thought and action are almost nonexistent. His whole life is endlessly and minutely regimented. Discipline and obedience are emphasized. The good

¹ Taylor and others, *op. cit.*, p. 395.

² Laski, *op. cit.*, p. 20.

³ Oakeshott, *op. cit.*, pp. 194, 195.

⁴ *Ibid.* It should be noted that under such a regime, since those who are in power are the ultimate judges of what is lawful and what is not, such slogans turn out to be largely propaganda devices. If applied seriously such laws are enforced arbitrarily and generally leave those influential in the party free to pursue their interests unhindered by the laws.

Nazi, like the good Fascist, seeks to lose himself in the service of the state. Hitler has instituted a comprehensive program of education for all German youth so that each citizen may understand and appreciate the principles and spirit of Nazism, and thus be able more effectively to serve the Reich.

The advance of the nation's power and prestige under Nazism has been most gratifying to the Germans, especially to the ruling clique, but for other peoples this development occasioned grave concern. Shortly after its advent, the Nazi regime began the breaking of the Versailles Treaty. A huge army and a considerable navy were developed in a remarkably short time. A large military force and a concomitant colossal armaments program were possible by virtue of the great sacrifices which the regime was able to induce and compel the German people to make. Soon Germany was threatening to upset the balance of power in Europe and establishing its hegemony ever more widely over European peoples. In recent years one country after another has been brought under Nazi domination by force. The outcome of the present war will determine whether the rest of the world shall come under the overlordship of Nazism.

WHICH WAY AMERICA?

Today democracy is facing ever greater ideological competition. The democratic way of life is being increasingly challenged. It is not wise for democratic peoples to underestimate the potency of democracy's rival ideologies. The totalitarians are confident and determined. Are democratic peoples equally so?

The present-day world-wide struggle of rival ideologies is no longer a matter of philosophical discussion or peaceful persuasion, but has reached a stage of a clash of armed forces in the most titanic war of all history. In the outcome of this struggle each citizen of the United States has a definite and heavy stake. It involves all of our social values and is rapidly pressing this nation to make a momentous decision. Our traditional way of life has been individualism expressed politically by a democratic form of government and applied in economic life through a capitalistic system. This way of life and the principles upon which it rests are now vigorously challenged: from without by rival ideologies, backed by military force in the case of Fascism and Nazism; from within

by the necessity of readjustment to meet the problems posed by a dynamic society in which human needs are changing. In this circumstance it is most pertinent and important to inquire "Which way America?"¹

In discussions of democracy in the United States today a number of different attitudes toward this way of life are discernible. One is a defeatist attitude. Some of our citizens believe the world is "drifting away from democracy."² They seem to regard this as an irresistible trend, and therefore are not disposed to oppose the alleged development. The truth, assuming that such a tendency is in process, is that such a movement can be arrested providing those who believe in the democratic way of life are ready to devote sufficient thought and effort to its maintenance.

A much more prevalent attitude toward democracy is one of indifference. Many accept it perfunctorily, not a few even with a touch of cynicism. Those who are indifferent seem to feel that our social order as they have known it will inevitably continue. They are unaware apparently of the fact that democracy is being rather sharply challenged.

Another attitude is seen in a disposition to be considerably impressed with the efficiency of dictatorial regimes on the one hand and to be rather agitated over the disabilities of democracy on the other. It is true that dictatorships manifest a capacity to act swiftly and organize effectively for the attainment of their objectives. Dictators can make quick decisions and follow any determination of policy with vigorous action. But efficiency is not the only criterion of social action. A dictator is irresponsible, and he cannot be infallible. The people have no check on his policies or his implementation of those policies. His action is not always aimed at the promotion of the best interests of the people. The material benefits which may come with highly centralized control

¹ For a brief exposition of the American, German, Italian, and Russian social patterns see Lyman Bryson, *Which Way America?* The Macmillan Company, New York, 1939, pp. 9-104. See also G. D. H. Cole and others, *What Is Ahead of Us?* The Macmillan Company, New York, 1937, p. 192. Charles E. Merriam's *The New Democracy and the New Despotism*, McGraw-Hill Book Company, Inc., New York, 1939, p. 262, is informative and stimulating. For an excellent delineation of the American social pattern, see David Cushman Coyle and others, *The American Way*, Harper & Brothers, New York, 1938, p. 171.

² Edward Heimann, *Communism, Fascism, or Democracy?* W. W. Norton & Company, Inc., New York, 1938, p. 15.

may easily be outweighed by the dangers which arise from the dictator's misuse of power.

Those who are enamoured of dictatorial efficiency are apt to stress the "failure of democracy"; they point to its uncertainties of purpose, ineptitudes, slow and fumbling action; and they allege that democratic procedures are too cumbersome to function satisfactorily in our present-day complex society. It should be admitted that the democratic way of life is not an easy social order to operate. Indeed, it is an exceedingly difficult one to effect, for it is by no means easy to organize consent and translate the public will into effective action. The political machinery of modern democratic states, it is important to note, was not created primarily for the purpose of "getting things done." The fundamental concern was with erecting safeguards against concentration of power in order that the people may remain the master of their government. Democratic peoples are willing to sacrifice on the side of prompt and vigorous action in order that a worse evil than some inefficiency may be prevented, namely, the development of irresponsible power. Furthermore, it is easy to exaggerate the disabilities of democracy. War is an excellent test of the capacity of a nation to organize and act vigorously. History does not record that democracies are seriously handicapped in modern warfare. Moreover, in time of peace democracy seems to be able to meet the perplexities of modern social life quite as effectively as any rival ideology. A democratic society can have any form of political organization or any economic system which is desired. It may abandon whatever organizations or procedures prove ineffective and establish those which are more satisfactory. For example, in the United States the former decentralized administration machinery has increasingly been centralized, a development which makes possible a vast improvement in efficiency of administration. All that is necessary for the maintenance of democracy in government is that the people have the right to choose their leaders and possess the power to remove them when they prove unsatisfactory.

A fourth attitude in the United States regarding democracy is seen in those citizens who seek to infuse it with new meaning and vitality by insisting, among other things, that democracy should mean the right of all to a decent standard of living, to economic security, to the service of science for the maintenance of health,

and to right of workers to have some share in the control of the industry in which they labor. If our democracy is to be preserved, these citizens realize that a "do-nothing" policy or mere passive defensive of our way of life will not suffice; that the challenge of competing ideologies cannot be met merely by argument or vehement condemnation of democracy's rivals. They see that if democracy and a semblance of free private enterprise are to survive the situation calls for a "girding of the loins for battle in the defense of free institutions."¹ Such citizens perceive that a democratic people needs to have clear and substantial reasons for their faith in democracy, and be ready to work for its maintenance. They are wont to hold that if democracy is to be vitalized two basic requirements are the removal of complacency and the creation of an intelligent body of public opinion.

In the United States, as in all other democratic countries, the great need today is for earnest, persistent, and intelligent formulations of programs for a genuine and dynamic democracy and such implementation of these programs as will ensure the ever fuller attainment of the objectives of such a social order. The economic side of the social order requires special thought in any comprehensive effort to vitalize our democracy. The traditional rampant economic individualism is proving increasingly unsatisfactory; the laissez-faire conception of economic life requires modification. The attitude that government is "the hindrance of hindrances" and "that government is best which governs least" should be changed to this conception: "The state has the positive function of providing as far as possible the conditions under which individuals can work their own maximum good."² When this change is effected the state will be regarded as the promoter of the fullest possible opportunities for our citizens.

Democracy needs to validate its assumptions, "particularly the assumption that the gains of the nation are essentially mass gains and should be distributed through the mass of the community

¹ George S. Counts, *The Prospects of American Democracy*, The John Day Company, New York, 1938, p. 109.

For a vigorous defense of the capitalistic system see "Capitalism Will Survive" in Andrews and Marsden, *op. cit.*, pp. 97-105. Much very readable material and an extensive bibliography upon the subject of capitalism is found in Julia E. Johnsen, editor, *Capitalism and Its Alternatives*, The H. W. Wilson Company, New York, 1933.

² John D. Lewis, "The Elements of Democracy," *American Political Science Review*, XXXIV: 472, June, 1940.

as rapidly as possible. Modern democracy escaped from absolutism . . . only to fall foul of the snares of plutocracy from which it is difficult but not impossible to escape.”¹ It is increasingly recognized that the rebuilding of the economic foundations of our democracy by seeking to bring economic power under popular control is one of the salient tasks facing our nation today. The developments in the United States since the onslaught of the severe business depression of the early 1930's afford great promise that the American people can effect under the democratic process a much greater social control of our economic life. The vast majority of Americans are convinced that it is far better to reform capitalism than to destroy it. But today there are sharp divisions of opinion as to the desirability of specific adjustments in our economic institutions.

The earnest hope of almost all Americans today is that all the social adjustments necessary for the promotion of our national welfare and happiness can be achieved within the framework of democratic conceptions and institutions. How successful democracy will be in meeting competing ideologies depends fundamentally upon its ability to meet the problems of contemporary society, and upon its capacity to retain, intensify, and extend the loyalty of peoples for the democratic way of life.

TERMS TO BE UNDERSTOOD

bourgeoisie	ideology
capitalism	individualism
civil liberties	laissez faire
collectivism	liberalism
Communism	Nazism
democracy	proletariat
dictatorship	Socialism
Fascism	totalitarianism

QUESTIONS FOR DISCUSSION

1. What is the relationship between democracy and liberalism?
2. How do you account for the rise in contemporary society of several rival

¹ Charles E. Merriam, *The New Democracy and the New Despotism*, McGraw-Hill Book Company, Inc., New York, 1939, p. 259.

For a helpful exposition of the interrelations of political democracy and economic life, see these two sources: Max Ascoli and Fritz Lehmann, editors, *Political and Economic Democracy*, W. W. Norton & Company, Inc., New York, 1937; Earl R. Sikes, *Contemporary Economic Systems — Their Analysis and Historical Background*, Henry Holt and Company, Inc., New York, 1940.

- ideologies? What are the factors that account for their wide diffusion and their present collision?
3. Why are there emotional elements in each ism?
 4. What features of our democratic social order are criticized derogatorily by the competing ideologies of democracy? What answers can you give to these criticisms?
 5. What do you regard as the principle assets of democracy? What are its chief defects in your opinion?
 6. What are the interrelations of democracy and capitalism?
 7. What programs and procedures in your opinion would improve our American democracy?

FOR FURTHER STUDY

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NATIONALISM AND IMPERIALISM

NATIONALISM

Nationalism is essentially a spirit or sentiment that attaches and binds people to a common country, either real or potential, in allegiance, obedience, and service. Other psychic elements, such as judgment, reason, and imagination, may be and often are important ingredients of nationalism; but the fundamental element, the one without which there can be no nationalism is a sentiment, a feeling of oneness, a "we-feeling," which makes all nationalists proudly conscious of belonging to the group.¹

Nationalism and Democracy. While both tribal solidarity and democratic ideals are old, nationalism and democracy developed together rapidly in Europe and the Western Hemisphere following the French Revolution. With the ascendancy of the bourgeoisie in the affairs of state, nationalism became a powerful force in the lives and political destinies of millions of people. Democratic participation in government gave nationalism a source of strength and security which is not adequately appreciated even today. On the other hand, nationalism strengthened and reinforced democracy. A feeling of unity and common purpose is an essential prerequisite to a wholesome and vigorous democracy. For a century — from 1815 to 1914 — these two political ideals, supporting and implementing each other, were the dominant political forces of the Western world.²

The conflict of peoples following the French Revolution intensified nationalism and the democratic principles of liberty, equality, and fraternity permeated Europe and spread to other parts of the world. The Greek revolt from the Ottoman Empire began in 1821 and ten years later resulted in Greek independence. Belgian independence from Dutch rule was achieved finally in 1839. In

¹ R. L. Buell, *International Relations*, p. 8.

² F. L. Schuman, *International Politics*, pp. 64-65.

the Balkans several new states, encouraged by Pan-Slavism, threw off Turkish rule and became independent, partly because of this new nationalism in the Balkans and partly through the interference and conflict of the Great Powers of Europe.

Nationalism took strong hold of the middle-class people of the seven states of Italy after 1815. Under the leadership of such patriots as Cavour and later the Republican nationalist, Garibaldi, the Italians were able to throw off the Austrian yoke and to establish a unified and liberal Italy by 1870. After 1870 the nationalism of Italy was directed toward the redemption of the provinces of Trentino and Tyrol and expansion into Africa.

Nationalism and democracy did not seem to thrive together in Germany, for it was under the leadership of Bismarck, the strong man of Prussia, that unification was achieved after three successful wars — one against Denmark for Schleswig-Holstein, one against Austria to establish Prussian dominance in German affairs, and finally one against France to restore Alsace-Lorraine and complete German unity in 1870–1871. However, the influence of the principles of the French Revolution had been felt in German states. The Revolution of 1848 was crushed, but the spirit remained. Germany was the first European state to pass social legislation as a means of appeasing the liberals. The impact of the Industrial Revolution came to Germany after 1871, and the middle-class influence was more powerful after that.

Factors Making for Nationalism.¹ Although it would be impossible to account for all the factors producing the nationalism of the several states, it seems desirable to consider some of the more important factors that are commonly found in all states.

Political Ideals. As was indicated above, democracy has for a hundred years been an important factor in the nationalisms of the several states of the Western world. More recently other political ideals have been powerful in shaping the spirit of the peoples in some of the states. Communism has contributed to the national sentiment in Russia. It is too early to estimate the force of Fascism in Italy and Nazism in Germany in shaping the nationalism of these states. In every state the political ideals, whatever they may be, give a peculiar flavor to the nationalism in that country. It would seem, however, that democratic political ideals, or at least

¹ Buell, *op. cit.*, Chap. 1.

ideals that make the masses feel that they have a part in the affairs of state, would be more powerful than any others in support of the spirit of nationalism.

Language. A common language aids in the development of nationalism. The language of a nation is the medium of exchange of ideas, attitudes, sentiments, and ideals. It is true that some of the states in which nationalism is strongest use more than one language — Switzerland and Belgium, for example. However, we often find that peoples seeking recognition as a state revive an old language, as for instance Ireland. Sometimes serious divisions arise among the people of a state over the question of language; this has happened in Czechoslovakia, in Belgium, and in other states. One language is often spoken in several states: Spanish in Latin America and Spain; French in Belgium, Switzerland, and France; English in the British Commonwealth of Nations and in the United States. We can say, then, that a common language is not an essential of nationalism but that it greatly facilitates this spirit, and that at times the lack of a common language has provided such friction and divisions among people as to tend to destroy or hinder the development of nationalism.

Race. There is no pure race; but a common biological heritage, which can be recognized as real or can be accepted as real though in fact it is fictional, has significant appeal to a national group. Possibly no single factor has greater weight in building up nationalism in some parts of the world today. Consider the Nazi appeal to pure Germanism. Think of our opposition to the immigration into this country of Chinese and Japanese. Note the wide circulation of literature intended to stir up race prejudice; and recall how Houston Stewart Chamberlain, Comte de Gobineau, Madison Grant, Lothrop Stoddard, and others impressed upon Europe and America the idea of "Nordic superiority."

Remembering that nationalism is primarily a "we-feeling" we are able to understand how very important it is in building up this feeling to be able to identify the people of a state as all belonging to a common race — possessing a common biological heritage. This explains why political leaders will often invent this fiction, if it can be made plausible.

Religion. In the nineteenth century religion played a more important part, possibly, in strengthening nationalism than it does today.

However, religion is today a factor of no small importance. The nations of the Western world profess the ideals of Christianity, while the Orient is largely non-Christian. Religious toleration even in the United States means to most citizens toleration of one another's religion among Jews, Protestants, and Catholics, and little consideration is given to the non-Christian groups. Although the constitutional guarantee that no religious qualifications shall ever be required for public office or trust under the United States is in no way limited,¹ the electorate would hardly choose a Hindu or a follower of Confucius to the presidency of the United States.

Some of the leaders in the new states of Europe, because they have met with the opposition of the organized churches, have curbed the power of the churches; but they have in all cases recognized the importance of religion, even if it be a new religion, in building up and intensifying the new nationalism of their respective states. A common religion is a unifying bond which may be exploited for the generation of nationalistic sentiments.

Geography. Many geographic factors have contributed to the nationalism of the several states. England's national history has been shaped to a very large degree by her insular position. The same is true of Japan. The bitterness between France and Germany is due, in great measure, to their propinquity. The fact that the United States is separated from the other great powers by two oceans is a significant factor in developing a feeling of unity among the people. The great natural resources of the United States contribute toward a feeling of economic self-sufficiency and of overconfident nationalism. Italy's imperialism can be explained in part by her poverty in raw materials. Nationalism also crosses geographical boundaries in some cases, for example, German nationalism today and Pan-Slavism before the First World War.

Tradition and Culture. The tradition of a people, the cultural heritage, contributes to the nationalism of that people. Mussolini's appeal to the greatness that was once Rome's heightens the spirit of the Italian people today. Hitler is able to arouse great enthusiasm among the German millions by emphasizing former German achievements, especially on the field of battle. In our national songs many references are made to our former war heroes and to our victories in war. The national anthem is a war song. The

¹ Article IV of the Constitution of the United States.

literature of the nations, especially the poetry and oratory, abound in nationalistic and even chauvinistic appeals to the people. Artists often find in national heroes and national events subjects suitable for their work. These traditional and cultural factors perpetuate the memory of national achievements and tend to arouse nationalistic sentiments.

Nationalism and Minorities. Nationalism has been a powerful factor in fomenting friction and dissension between the ruling majorities and oppressed minorities in European states. Many of the political difficulties in the last 100 and more years have been due to the efforts of national minorities to free themselves from oppression and subjugation and even annihilation by the dominant national group. At the close of the First World War an earnest effort was made to solve the minorities problem in Europe. The number of minority people living under an alien rule was reduced from fifty-four million to approximately seventeen million people.¹ This was no mean accomplishment when one considers the complexities of the problem. To protect those minorities yet remaining within certain European states, minority treaties were signed and the enforcement of these treaties was made a responsibility of the League of Nations. The minority treaty was a new instrument for the protection of minorities and was agreed to by certain states only after considerable grumbling and protest. Poland was the first state to conclude such a treaty but was followed by Czechoslovakia, Yugoslavia, Rumania, and Greece. Later some fifteen states in eastern Europe either signed treaties similar to the one signed by Poland or had clauses in the peace treaties protecting minorities.²

¹ F. L. Schuman, *International Politics*, third edition.

² Among the main provisions of the Minorities Treaty entered into between the United States of America, the British Empire, France, Italy, Japan, and Czechoslovakia, signed at Saint Germain-en-Laye on September 10, 1919 (in League of Nations, *Protection of Linguistic, Racial, and Religious Minorities by the League of Nations*), are the following: "Czecho-Slovakia undertakes . . . full and complete protection of life and liberty to all inhabitants of Czecho-Slovakia without distinction of birth, nationality, language, race or religion . . . free exercise, whether public or private, of any creed, religion or belief, whose practices are not inconsistent with public order or public morals. Czecho-Slovakia admits and declares to be Czecho-Slovak nationals *ipso facto* and without the requirement of any formality German, Austrian or Hungarian nationals habitually resident or possessing rights of citizenship (*pertinenza*, *Heimatsrecht*), . . . at the date of the coming into force of the present Treaty in territory which is or may be recognised as forming part of Czecho-Slovakia. . . .

"Nevertheless, the persons referred to above who are over eighteen years of age

The minorities in Czechoslovakia were treated with a degree of fairness not found in other European countries. Nevertheless friction between the minorities and the dominant group occurred, partly stimulated by propaganda from abroad, especially Germany. This finally precipitated the Nazi attack upon Czechoslovakia.

The other European states that signed a minorities treaty or in other ways undertook the obligations prescribed by these treaties failed, in many instances, to observe the enlightened standards and principles set forth therein. Much of the trouble of postwar Europe has arisen over minority peoples. Extreme and narrow nationalism has led to fanatical and cruel persecution and even destruction of Jews in Nazi Germany. Italy now seems determined or forced to follow the Nazi example in this as do Roumania, Hungary, and even France.

The Communist government in Russia has solved the nationalist problem by not only permitting but encouraging complete cultural and national autonomy within the economic and political framework of the Soviet state.

will be entitled . . . to opt for any other nationality which may be open to them. . . .

"All persons born in Czecho-Slovakia territory who are not born nationals of another State shall *ipso facto* become Czecho-Slovak nationals. . . .

"All Czecho-Slovak nationals shall be equal before the law and shall enjoy the same civil and political rights without distinction as to race, language or religion.

"Differences of religion, creed or confession shall not prejudice any Czecho-Slovak national in matters relating to the enjoyment of civil or political rights. . . .

"No restriction shall be imposed on the free use of any language in private intercourse, in commerce, in religion, in the press or publication of any kind, or at public meetings.

"Notwithstanding any establishment by the Czecho-Slovak Government of an official language, adequate facilities shall be given to Czecho-Slovak nationals of non-Czech speech for the use of their language, either orally or in writing, before the courts. . . .

"Czecho-Slovak nationals who belong to racial, religious or linguistic minorities shall enjoy the same treatment and security in law and in fact as the other Czecho-Slovak nationals . . . equal right to establish, manage and control at their own expense, charitable, religious and social institutions, schools and other educational establishments, with the right to use their own language and to exercise their religion freely therein.

"Czecho-Slovakia will provide in the public educational system . . . adequate facilities for instruction . . . to the children of such Czecho-Slovak nationals through the medium of their own language . . .

" . . . these minorities shall be assured an equitable share in the enjoyment and application of the sums which may be provided out of public funds under the State, municipal or other budget, for educational, religious or charitable purposes.

"Czecho-Slovakia undertakes to constitute the Ruthene territory . . . as an autonomous unit within the Czecho-Slovak State, and to accord to it the fullest degree of self-government compatible with the unity of the Czecho-Slovak State."

The United States has followed the highly successful policy of voluntary assimilation of aliens of European extraction and of the native Indian population. In the postwar period the immigration laws limited the number that could enter the United States in any one year and discriminated against southern and eastern Europeans. Our discrimination against the Negroes and the Asiatics has been largely on account of race and the assumption that their physical characteristics discourage assimilation.

Nationalism and Defense. A problem of increasing importance in the United States is that which arises out of the diversity of national origins of our people and the divided sympathies and loyalties of minority groups in the present world situation. While most of our minority peoples are loyal Americans it is widely believed that our lack of unity in the past has been partly due to the divided loyalties of national minorities. Often sentimental attachments to original cultures prevent clear thinking on the critical issues facing the United States. Since Pearl Harbor an exceptional degree of unity among our people has prevailed. While democracy is necessarily tolerant of minority groups a state that permits individuals or groups within its borders to place the interests of another state above its own vital interests might pave the way to its own destruction.

The German minority in Czechoslovakia contributed powerfully toward the destruction of that state. French nationalism had been already undermined by foreignisms before the beginning of the present war in Europe. The army was defeated before it began to fight. Norway's sure and easy defeat was prepared by the Quislings. The Nazis know the value of undermining national solidarity by the careful and painstaking use of spies, appeasers, traitors, pacifists, and fifth columnists.

Nationalism and a New World Order. Nationalism has contributed toward the building up of strong states, especially since the French Revolution. But narrow nationalism and chauvinism may lead to the downfall of great states and even contribute to the destruction of civilization itself. Technology today has made the peoples of the world interdependent as never before. People, wherever found, have many common interests and similar aspirations. Extreme nationalism is in conflict with the economic and technological tendencies of the present. Hence there have been

a number of movements to establish a world order in which national interests will be subordinated.

Instruments of the New Nationalism.¹ *Conflict.* Although international conflicts and wars have nurtured nationalism for a long time, some states have consciously cultivated nationalist feelings. Hitler has played upon the feeling of insecurity of the German people and has aroused their war spirit to bind them to Nazism. Similar appeals have been made in Italy and in Russia. Italian aggression against Ethiopia, Japanese aggression in Manchuria and in China, as well as the German aggression against Austria, Czechoslovakia, Poland, Denmark, Norway, Belgium, Holland, France, and the Balkans, all have served to strengthen and over-emphasize nationalism at the expense of more important values of civilization. The United States, a country devoted to the ideals of peace and of the good neighbor, finds it necessary to spend billions of dollars and to demand the services of her man power for total defense, and now to wage a total war against the Axis Powers, because of the dangers that have grown out of unbridled nationalism promoted by irresponsible leaders whose ambitions seem to have no limits short of world domination.

The School. In all countries of the Western world children, before they reach school age, have learned the meaning of the flag and have heard stories of its origin and history, have heard the national anthem and other stirring songs of patriotism, and know something of the great national heroes and their deeds of valor on fields of battle. Upon entering the schools children meet with well-organized efforts to arouse the spirit of nationalism. Here they learn the salute to the flag and to sing the songs that inspire patriotic feelings. They read their national history books and the literature that inspire devotion to country by relating tales of heroism and self-sacrifice for fatherland. They take part in the celebration of national holidays and in the promotion of national interests. It is recognized as one of the major functions of education to promote good citizenship and devotion to country.

In the dictatorial regimes the schools have been turned into mere agencies of nationalism. Nazi Germany has forced teachers and professors who do not see eye to eye with the leaders of the dictator-

¹ F. L. Brown, Charles Hodges, and J. S. Roucek, *Contemporary World Politics*, pp. 40-44.

ship to flee the country. All levels of education are controlled in the interests of Nazism. Textbooks have been rewritten. Private schools have been abolished. The curriculum has been modified so as to promote the new authoritarian principles. More emphasis is placed upon physical and military training with special attention given to war consciousness. Great stress is placed upon the superiority of the German "race." Enrollment in secondary schools has decreased, particularly among the girls, and before the outbreak of the war, enrollment in the universities was reduced more than 50 per cent.

In Italy under Fascism, the textbooks have been rewritten, the teachers examined as to their political records and opinions, and instruction brought under rigid supervision by Fascist authorities. Even the private schools are closely supervised and controlled. On February 15, 1939, the Fascist Grand Council issued a "School Charter" which completely revised the Italian school system to make it comply in curriculum and instruction with the policies of Fascism.

Soviet Russia, too, has recognized the importance of the schools as instruments of the new policies. Rigid adherence to Communism is required. Freedom of thought in political matters is forbidden and the schools throughout the U.S.S.R. are required to promote Communism.

Some effort has been made in the schools of the democracies to intensify nationalism by demanding loyalty oaths and by requiring courses in citizenship and military training. In times of emergency or crisis, educational leaders in democratic states become more concerned about protecting and promoting national sentiments through the selection of suitable materials and the adoption of methods of teaching designed to protect the state from subversive activities while preserving the essentials of democracy for the citizenry.

The Church. If a religion cuts across the boundaries of a national state or if its teachings are contrary to some of the tenets of the nationalism of a state then conflicts between the political authorities and the church often develop. Strong nationalists wish to subordinate the church to the state. They would have the state take over many functions of the church, such as the regulation of family affairs, the conduct of education, and the support of charity.¹

¹ Carlton J. H. Hayes, *Essays on Nationalism*, Chap. VII.

Church property gives economic power and political influence to the church. The state has sometimes confiscated such property to prevent its use in opposition to the prevailing nationalistic program and to increase the economic power of the state.

Revolutionary leaders are, as a rule, opposed to the existing churches. This is because the church usually supports the old order and is a powerful influence against the new. Churches usually suffer most at such times of sudden and revolutionary change. The leaders of the French Revolution attempted to destroy the church and enthrone reason, but Napoleon saw the necessity of coming to terms with the Pope. The nationalists that brought about the unification of Italy came into conflict with the church, but Mussolini saw the advantage to Fascism of reaching an accord with the Pope. The Spanish liberals were overthrown in part because they came in conflict with the Catholic Church in Spain.

Leaders of the new European nationalisms have attempted either to use the old church organizations or, failing in that, to set up their own to teach their respective nationalisms. Mussolini reached an agreement with the Vatican but only on conditions that gave the state control of political matters and made the church an ally of Fascism. Religious education is provided by the church in the public schools at state expense. Catholicism is made the state religion and priests are obligated to give moral support to the Fascist authorities. Catholic action among the youth is limited to religious activities and education is made a monopoly of the state.¹

In Communist Russia the Greek Orthodox Church was disestablished, the schools secularized, the property of the church confiscated, and atheism made one of the tests for membership in the Communist Party. While Greek Orthodox and other churches have in recent years been permitted to hold services, atheism is still a state dogma and antireligious propaganda together with freedom to follow one's own religious beliefs is guaranteed in the Constitution.² On the whole the U.S.S.R. has opposed the established churches and has minimized the power of the church in the new Russian nationalism.

¹ S. W. Halperin, *The Separation of Church and State in Italian Thought from Cavour to Mussolini*, Chicago, 1937. See also *Current History*, 30: 538-566, July, 1929.

² J. Hecker, *Religion under the Soviets*, New York, 1929. See also the 1936 Constitution.

In Germany the majority of the Protestant clergy and laymen have supported the Nazi regime, just as they have generally supported the state since the days of Martin Luther. Some of the leaders discovered too late that the Third Reich in its essential nature is anti-Christian. They offered feeble resistance but the Protestant churches were soon made to serve the purposes of the Nazi state, whose main principles are anti-Christian and pagan.¹

In July, 1933, Hitler and the Holy See concluded a concordat which provides freedom of confession and worship for the church. It guarantees religious instruction in public schools and the establishment of private Catholic schools whenever the parents demand them. It authorizes Catholic organizations devoted to religious, cultural, or charitable purposes. The Holy See agrees to prevent political activities on the part of Catholic clergy and members of religious orders. The Hitler regime has broken all the pledges of this concordat. Priests and members of religious orders have been sent to prison and concentration camps. Yet the Third Reich needed the cooperation of Catholics in the Spanish intervention. Hitler's professed crusade against Communism was in part designed to appeal strongly to the sentiments of the Catholic church. There has been no formal break between the Pope and Hitler and it remains for the future to disclose the final outcome of this struggle between Christianity and a regime which is fundamentally pagan and materialistic.

Youth Organizations. The dictators of Europe have given much time and effort in building up the youth organizations. In Russia attention has been given to the training of the youth in the new nationalism. The All-Union Communist League of Youth is composed of young people of both sexes between the ages of fifteen and thirty. Membership is open to non-Communists as well as to Communists, for the purpose is to make good Communists of all members of the organization. The Pioneers, composed of some 6,000,000 children between the ages of ten and sixteen and the Little Octoberists between the ages of eight and ten, make up the junior organizations. These younger groups are led principally by members of the All-Union Communist League and are taught

¹ K. Loewenstein, *Hitler's Germany*, new ed., rev., The Macmillan Company, New York, 1940.

the essentials of Communism, trained in some socially useful work and given the elements of military training.¹

The Fascists in Italy have organized the youth and placed the organizations under the supervision of the Fascist Party. Boys and girls are in separate groups because the Fascists oppose the participation by women in public affairs. The youth are organized into four age-groups: (1) six to eight; (2) eight to fourteen, (3) fourteen to eighteen, and (4) eighteen to twenty-one. Membership is voluntary but is made attractive by the recreational and other facilities furnished to the members. The most important Fascist youth organization, for boys from eighteen to twenty-one years of age, prepares for full-fledged membership in some local unit of the Fascist Party. In all the male organizations much stress is placed upon military training and the development of a war consciousness.²

All German youth from six to eighteen years of age belong to the Hitler youth organizations. Here they are carefully taught Nazi principles of German superiority and of "pure racism." They are drilled in party slogans and in party discipline and are imbued with a fanatical devotion to the fatherland. They are given military training and prepared for the ultimate sacrifice on the altar of war.³

In our own country something of the spirit of nationalism is developed among the ROTC, Boy Scouts, and Girl Scouts, all of them voluntary organizations.

The Press. The dictatorships have complete control of the press and use it as an instrument to promote their own brand of nationalism. In Germany control of the press is exercised through a system of licensing under the direction of a minister of public enlightenment and propaganda. The law prescribes the qualifications for editors and the limitations placed upon the execution of their editorial functions. It places the national press association under the supervision and control of the Minister of Enlightenment and Propaganda. The papers *Der Angriff* and *Völkischer Beobachter* are

¹ S. N. Harper, *Civic Training in Soviet Russia*, University of Chicago Press, Chicago, 1929; and *Making Bolsheviks*, University of Chicago Press, Chicago, 1931; W. E. Rappard *et al.*, *Source Book*, Part V, pp. 53-59.

² James T. Shotwell, ed., *Governments of Continental Europe*, The Macmillan Company, New York, 1940.

³ Loewenstein, *op. cit.*

organs of the National Socialist Party, the latter being the chief mouthpiece of Hitler. The D.N.B. is the official news agency of the Nazi government.

In Italy there is a rigid censorship of all publications under a licensing system so that a hostile press has no opportunity to offer any criticisms. There is an active party press headed by Mussolini's own paper, *Popolo d'Italia*. The "Ministry of Popular Culture" through numerous party and government press bureaus censors and colors the news, both domestic and foreign.¹

The Soviet constitution of 1936 guarantees freedom of speech, of the press, of assembly, and of demonstration. These freedoms may be exercised "in the interest of the working people and in order to strengthen the socialist system." The government controls the printing shops and the materials needed for the press as well as all newspapers. *Tass* is the official news agency. The two most important papers of Russia today are *Izvestia*, the official organ of the Central Executive Committee of the U.S.S.R. and the All-Russian Executive Committee and *Pravda*, the official organ of the Central Committee of the Communist Party. In all three of the dictatorship countries the press is controlled and directed in the national interests of the dictatorships.

In France and England the press is censored in the interests of the government now in control there. In democratic states at peace and in normal times the press is relatively free. In times of emergency it might be possible for some newspapers to abuse the principle of freedom of the press in order to promote subversive and disloyal activities. But on the whole the press, given freedom to criticize, voluntarily supports the national interests of the democratic state.

All these instruments are used by the dictators in their own interests and in the interests of the special brands of nationalism which they as dictators sponsor. In the democratic countries although they are also used to instill and perpetuate the special types of nationalism existing in each country, there is more freedom from control by the governments.

¹ Arnold J. Zurcher, "State Propaganda in Italy," in *Propaganda and Dictatorship*, H. L. Childs, ed., Princeton University Press, Princeton, 1936, pp. 36 ff.

IMPERIALISM

In a sense imperialism is a manifestation of nationalism. Recent developments in the world suggest that imperialism includes not only the domination of backward peoples by peoples more advanced technologically, but also the subjugation of peoples with one social and political philosophy by others with opposite or conflicting philosophies. It is being said that the world cannot remain half democratic and half dictatorial. It must become all one or the other. Events seem to be moving swiftly toward this death struggle between democracy and dictatorship.

Motives of Imperialism. *Humanitarianism.* There are those who look upon empire as the "white man's burden." For a century or more Christian missionaries have stressed the humanitarian motive of imperialism. Some have been ardent propagandists for the cause of imperialism. We find Dr. Peter Parker, who had been in China for some years as a medical missionary, in Washington in April, 1841, urging Secretary of State Daniel Webster to send a minister to China. He and the Reverend E. C. Bridgman, another missionary, were made interpreters of the Cushing Delegation sent to negotiate a commercial treaty, which was signed in 1844. This same Dr. Parker, while a commissioner to China from 1855 to 1857, was eager to have the United States seize Formosa but was unable to persuade his government to do it.

David Livingstone was an ardent champion of British imperialism in Africa. He saw in the extension of British control there an opportunity to destroy slavery and to carry civilization and Christianity to that continent. Fabri, a German missionary to Africa, was a very influential German imperialist.

Missionaries have often called upon their mother country to bring protection to them and to the cause they serve. Then, too, countries have taken advantage of the killing of missionaries to extend their power over other countries. They sometimes go in to punish the crime and remain for profits. A British protectorate was established over Uganda in 1894 and over British East Africa in 1895 in answer to the prayer of the church.

Some statesmen advocate imperialism in order to raise the cultural and economic level of backward peoples. The mandate system set up by the Versailles Treaty in 1919, for the administra-

tion of the territories lost by Turkey and Germany, recognized the principle of trusteeship and the responsibility of the mandatory power to administer the mandate upon a high level of justice, subject to the supervision and approval of the Council of the League. A Permanent Mandates Commission, composed originally of nine members and enlarged later to ten to provide for a German member, was set up to administer the system under the supervision of the Council of the League. The Commission has not been as successful in protecting the interests of the backward peoples as had been expected by those who believed the mandate system would prevent such exploitation of these peoples as was practiced by the imperialistic countries before the inauguration of this new system. It has not prevented the development of friction between the mandated territory and the mandatory power, although it has served to raise the standards of colonial administration to some degree. It seems probable that the interests of native peoples are better safeguarded under the mandate system than they would be under the old system of outright imperialistic annexation. That the system has not prevented friction between countries needs no comment here except possibly to suggest that no system is a guarantee of the integrity and the justice of nations in their relations with one another.

Population Pressure. Population pressure is no longer an impelling motive of imperialism. Before the First World War great emphasis was placed upon population pressure. Much was written concerning birth control. The danger to the happiness of the human family by unlimited breeding was emphasized; and the need for a reduced birth rate to save the world from misery, starvation, and wars was, in the minds of many, the greatest of all problems facing the world. Population theorists poured forth volumes of literature on the subject, while leaders of states, imbued with the spirit of intense nationalism, grabbed land wherever they could find it and prepared to contest with each other over markets for manufactured goods, sources of raw materials, and opportunities for the investment of surplus capital.¹

Today the intensity of the rivalry between nations has greatly increased, but certainly not because of the danger of overpopulation

¹ L. I. Dublin, *The Population Problem and World Depression*, Foreign Policy Pamphlet No. 1, Foreign Policy Association, New York, 1936.

in the world. The problem so far as population is concerned is one of maintaining numbers sufficient to preserve the national integrity and of maintaining a quality of population capable of carrying forward civilization itself. The dictatorships would carry forward civilization by increasing their population and molding it into a war machine to be led by the dictators to impose their system of government and culture on the rest of the world. The democracies, on the other hand, believe in improving the quality of population by giving peoples the freedom to live and the opportunity to improve the material and spiritual values of life, encouraged by governmental forces, both domestic and foreign.

The great depression has forcibly brought to our attention the fact that today we face the grave problem of the equitable distribution of goods and services among the nations of the world and among the people of the different nations. This is not to say that the population problem is the same in all parts of the world. On the contrary, there are great and fundamental differences in the population picture in the various parts of the world. Dublin has pointed out at least four types of problems. First, there are a number of countries where the population is already stationary or rapidly becoming so, but where the resources are available either in the mother country or in colonial possessions in sufficient quantity to guarantee the population against a lowering of the existing standards of living. The United States, France, and England belong to this group. In these countries the problems of population concern the maintenance of the present numbers, the improvement of quality, the shifts of population within the countries themselves, and the adjustment of production and distribution made necessary by changes in population growth.

Germany illustrates the second type of problem. Since the First World War and before the advent of Hitler there was a rapid decline in her population growth. By the treaty of peace at the close of the First World War Germany was deprived of her colonial possessions. Her national resources were greatly limited. With her rapidly declining birth rate, her limited resources, and her lack of colonies, Germany seemed destined to play a minor role in world affairs, unless something were done quickly and effectively to check the trend in her rapid decline of population. Hitler came to power in Germany, partly, at least, because of this situation and because

the depression intensified the pessimism existing among the German people. His problem, as he conceived it to be, was to regain for Germany a place — her proper place — among the nations of the world. To accomplish this he succeeded in not merely checking the decline of the birth rate but in increasing it by encouraging marriages through loans, by discouraging the employment of women, by placing economic burdens upon bachelors, and by making emotional appeals to the people.

There is a third group of states where the birth rate produces a serious problem because the natural resources available are not sufficient to maintain a high standard of living. This is especially true of Italy and Japan. Although in both these countries there are evidences of a declining fertility, the national increase of population is still a serious problem and is responsible to a large degree for the imperialistic and militaristic spirit prevailing in each of these countries.

The Soviet Union belongs to this group because of the rapid increase in her population. In that country with a new political and economic philosophy there seems to be no lack of fertility of the population. The national resources, however, are abundant, and technological improvements are being made rapidly.

The fourth group includes such countries as India and China, which lack industrial development and which suffer from severe population pressure. In India especially we find the Malthusian principle, that population tends to increase at a geometric ratio while food supply increases at an arithmetical ratio, in operation with practically no check on population growth except the checks of war, misery, disease, famine, and flood, such as Malthus pictured for all peoples.

The Economic Motive. The economic motive for imperialistic expansion has always been strong. Advanced countries need raw materials; they need markets for their own finished products; and places for the investment of surplus capital. While it has seemed desirable to point out some of the peculiar problems facing different countries because of the varying rates of population growth, it would seem that the emphasis today should be placed rather upon the economic interdependence of all states. Even the United States, which, because of its abundant resources and its low population

density, might maintain itself in isolation for some time, is inevitably bound to a world economy.¹

The intense nationalism of the postwar period has really run counter to the economic interests of states. Although some states have an abundance of basic raw materials and others lack many of these, the fact is that no state today has sufficient of all raw materials and foodstuffs to meet its needs. Higher standards of living for the people of all nations can be maintained through economic cooperation rather than through economic self-sufficiency because such cooperation enhances production in all countries and therefore makes available a larger supply of goods and services at less cost. If considerations of a political or military character are placed above the economic well-being of the people, then economic self-sufficiency may take the place of economic cooperation for a time. However, such a philosophy will ultimately weaken a state politically and militarily. To be strong politically or in a military way in the modern world requires that a state be strong economically. A state might store up basic raw materials, which it does not have, to take care of its needs for short periods of time, but in the long run economic self-sufficiency is bound to weaken a state in every respect.

Population in Relation to Raw Materials. There is today a great disparity in the distribution of population in relation to raw materials. Some countries, such as the United States, the Soviet Union, and the British Empire, are well supplied with the basic raw materials and have relatively small populations as compared with resources; while other countries, such as Italy and Japan, are not only lacking many of the basic raw materials, but their populations are exceptionally large as compared with their available raw materials. This means a great disparity in the standards of living among the people of the different countries of the world, unless trade barriers are removed.

Labor tends to migrate from countries where there is a large population as compared with resources to countries where labor is in demand. Capital tends to move from countries well supplied to countries needing capital for the development of resources. Although land itself cannot be moved, goods tend to move to countries where they are most in demand — manufactured goods

¹ B. N. Dell and G. F. Luthringer, *Population, Resources, and Trade*, pp. 3-19.

to agricultural countries and raw materials to industrial countries. If trade barriers and immigration restrictions are removed, differences in standards of living tend to correct themselves in part by these tendencies of the factors of production to move from one country to another.

Many influences discourage or prevent the migration of workers. Home ties are not easily broken. Differences in language, culture, climate, and living conditions have always been powerful restraints on the migration of people. Since the poor are the ones who migrate in order to better their economic status, often the cost is an effective preventive of migration. Since the First World War most nations have placed legal restrictions upon immigration into their countries, and in some cases have excluded some or all classes of immigrants. Few, indeed, have been the number of people leaving their homeland in the last half century to live in the colonies of the mother country. The climate and other conditions in the colonies do not attract the people of imperialistic countries. Of the 20,000,000 Europeans leaving Europe in the last half century only about 2 per cent went to the colonies of the European countries.¹ In 1914 only 20,000 Germans lived in German colonies and in 1931 only 55,000 Europeans, many of whom were not Italians, lived in all the Italian colonies in Africa. A similar condition obtains with respect to the colonies of all the imperialistic countries.

Capitalists often refuse to invest abroad because of the greater risk or because of lack of sufficient information. This is especially true with reference to investments in colonies. Professor Schuman² points out that, of the \$682,000,000 invested by Japan in Manchukuo between 1931 and 1937, \$312,000,000, or almost half, was spent for maintaining Japanese military forces and only \$40,000,000, or about 6 per cent of the total, was in private investments.

For many years some countries have made use of protective tariffs to discriminate against foreign goods. Recently, use has been made of quotas, preferential tariffs, embargoes, barter arrangements, and control of foreign exchange to promote a closer trade cooperation between the mother country and colonies. However,

¹ Schuman, *op. cit.*

² *Ibid.*, p. 389; see also Chap. XXXI on International Economic Relations in this volume.

despite these efforts, no imperial power has a monopoly of the trade with its colonies, and in no case is such trade an important portion of the state's total foreign trade. In some cases the colonial use of certain commodities from the mother country and the dependence of the imperial power upon the colony for certain raw materials in other cases are of considerable importance. If trade barriers were removed, however, political control would be unnecessary even in such cases.

Military Motive. Sometimes countries need military or naval posts to protect their trade. The British have established naval bases at Gibraltar, Alexandria, and Singapore, and many other places to protect their life line of trade with the world. The United States has been interested in fortifying the Panama Canal, Hawaii, the Philippine Islands, and recently Iceland and certain bases in the Atlantic for defense purposes. Other countries have been similarly interested in colonies to make it possible to build up adequate military and naval defenses.

The new Pan-Americanism being emphasized by Secretary of State Cordell Hull and President Franklin D. Roosevelt is partly in behalf of total defense. The motive, in other words, is military, in the sense that the purpose is to cement the friendship of all the Americas in the interest of protection against real dangers from powerful countries across the seas.

Power and Prestige. All that has been said might be summarized by pointing out that the fundamental motive of imperialism is to increase the power and prestige of the imperialistic state. Sometimes the leaders are thinking of their own interests — military and naval leaders of their military and naval glory, economic leaders of their monopolistic power to invest, trade, and exploit resources, and political leaders of their prestige with their own people and with other world leaders. The leader of a state may act on the assumption that to increase the power and prestige of his state is to increase his own glory. Nationalism then incites to imperialism as a means of realizing a greater nationalism through the increased power and prestige of the imperial state.

Power politics, extreme nationalism, and militarism are more powerful incentives to conflict among nations today than danger from population pressure and scarcity of raw materials. Raw materials could be made available by the removal of trade barriers

if only these powerful incentives to war could be removed or lessened; at the same time the problem of overpopulation would probably disappear. New ideologies and the ambitions of selfish dictators make the problems of nationalism and imperialism menacing to civilization and the security of states.

TERMS TO BE UNDERSTOOD

colony	concordat
imperialism	minority
race	nationalism
mandate	population pressure
chauvinism	economic self-sufficiency

QUESTIONS FOR DISCUSSION

1. Give all the sound arguments you can in favor of imperialism. Do these arguments outweigh those against it?
2. Criticize the definition given of nationalism.
3. Rank the factors making for nationalism in their order of importance today, and justify your decisions.
4. Do the same for the motives of imperialism.
5. Indicate the importance of minorities in the world today.
6. What is the significance of nationalism in defense activities today?
7. Will nationalism aid or hinder a just world peace at the close of the present World War?
8. In what way, if any, do colonies relieve population pressure in the home country?
9. Suggest a practical solution to the problem of raw materials.
10. Why should countries fear stationary or declining populations?

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INTERNATIONAL ORGANIZATION

INTERNATIONAL INTERDEPENDENCE AND THE
NATION-STATES

Our world is one of nation-states. They have significantly influenced the life of mankind in the modern era. There is in the contemporary world no more universal and potent social force than that of nationalism which is the product of peoples living, working, and fighting as nations.¹ Under nationalism the people of each nation-state give their paramount political allegiance to their respective national states and are conditioned to feel that their particular state is "the medium through which civilization is best assured and advanced."² The nation-state has been well described as a "cult."

Millions are influenced more in their emotions and behavior by a sense of national solidarity and fellow feeling with their fellow nationals than by their racial, religious, economic, aesthetic, or recreational interests.³

Incomparably the greatest organizational task of today is that of molding the world community. This undertaking derives its importance not merely from its scope, but also from the fact that it involves possibilities of the most vital character for the life of all mankind. Upon its success depends the possibility of the orderly and peaceful development of every nation in the world's state system.⁴

Our theoretical and legalistic conceptions of international relations, however, are almost completely at variance with the facts

¹ See Chap. XLVII, Nationalism and Imperialism, of this volume for an exposition of nationalism.

² C. J. H. Hayes, *The Historical Evolution of Modern Nationalism*, R. R. Smith, Inc., New York, 1931, p. 302.

³ Frederick L. Schuman, *International Politics*, 2nd ed., McGraw-Hill Book Company, Inc., New York, 1937, pp. 219-220.

⁴ For a brief but lucid description of the "Rise of the World Society" see Schuman, *op. cit.*, Chap. I, State Systems of Yesterday, pp. 8-38, and Chap. II, The Rise of the Western State System, pp. 40-95.

of present-day life. The central task, therefore, in all efforts to afford the world community a more adequate organization is to bring international political arrangements much more fully into line with the realities of mankind's economic and cultural development. At the heart of the great problem of international organization is the need for the development of such international political institutions and processes as will promote the best interests of all peoples. Now the lack of adequate political machinery in the world community is one of the chief stumbling blocks to human progress.

Modern science and industry have given us a vastly different world from that of our forefathers. Intercontinental communication, formerly a matter of weeks or even months, has now become, through telegraph, cables, telephone, and radio facilities, practically instantaneous. Tiny, slow sailing vessels have been supplanted in transoceanic shipping and passenger service by vastly larger and far speedier ocean liners. Railroads lace together the countries of each continent. A world-girdling air transport maintains regular transcontinental and transoceanic schedules. Teeming millions of people live by an industrial process which involves combing the world for raw materials and selling manufactured goods in a world-wide market. Imports and exports of the peoples of the nation-states have mounted remarkably, both in number and volume. For example, the combined imports and exports of the United States in 1790 were about \$43,000,000, whereas in 1929 they amounted to nearly \$10,000,000,000.¹ As a result of the revolutions in communication, transportation, and manufacturing techniques which have occurred in the last 150 years, there exists today an unprecedentedly close-knit and highly interdependent world life. The patent fact is that in the twentieth century every human being in every national state is involved, often vitally, in a vast web of interests and concerns which transcend national boundaries.

While science, technology, and industrialization have created a new and increasing interdependence among the nations of the world, the nation-states, which are the units of international organization, are still impelled in their international relations by

¹ For a discussion of the world's economic life see Chap. XXXI, *International Economic Relations*, in this volume.

people whose attitudes, emotions, and values were shaped during a bygone age. The policies of national states upon which their peoples rely for the maintenance of international intercourse are often anachronistic under present-day world conditions. In the new world, produced by the great revolutions of the last century and a half, the peoples of the national states, unfortunately for world order, peace, and prosperity, interpret their roles in terms of conceptions which were appropriate only for simple, preindustrial conditions. The revolutionary changes produced by technological developments have destroyed in large measure the factual foundation of that isolation and self-sufficiency which were so characteristic of former times. Yet most people are still thoroughly conditioned from childhood to a nationalistic outlook.

In every community there is "politics," which term refers to a conflict of interests and efforts to adjust these conflicting interests. In the world community there is international politics.¹ The nation-states are engaged in a universal, constant, intense struggle for power. In the absence of adequate facilities for dealing with their political and economic conflicts in an orderly manner, war, the crushing burden of armaments, the injurious blocking of world economic processes, and all the deplorable accompaniments of international anarchy will inevitably continue.

NONPOLITICAL INTERNATIONAL ORGANIZATION

Private International Organizations. The fact is not commonly appreciated that there are many international organizations with vital functions in our world that are not officially a part of the political life of the world community. Although such organizations present no problems of international importance comparable to those involved in the interrelationships of the national states, nevertheless in any survey of international organization they are of considerable significance.

The field of nonpolitical international organization is called "private international organization." This term refers to those associations of individuals and groups which carry on activities

¹ Since the close of the First World War (1919) Americans have manifested an increasing interest in international politics. A wealth of printed materials on this subject is available. Among the texts in this field are Schuman, *op. cit.*; Francis J. Brown, Charles Hodges, and Joseph S. Roucek, editors, *Contemporary World Politics*, and Walter S. Sharp and Grayson Kirk, *Contemporary International Politics*.

across national boundaries without directly involving national governments. Such organizations are really not "international" in a strict sense of the term, for "international" means between nations or national states. They "may most accurately be described as private world-living or cosmopolitanism."¹ "These organizations are not official, and they rest, not upon a foundation of public authority, but upon voluntary private cooperation."² Their members are individuals or groups who, while living in different countries, act with others in other nations as their interests suggest or dictate.

Development and Scope. An extensive cultural diffusion has been progressing rapidly in our world, particularly and increasingly since the last half of the nineteenth century. The vast multiplication of contacts among the peoples of the earth in the last seventy-five years resulted in the awareness of universal interests. Inevitably this led in turn to the organization of these interests. Private international organizations have been formed in every field of human activity. They cover the whole gamut of man's interests — from stamp collecting and feminism to trade unionism and scientific research. "No important aspect of human life is unrepresented."³ There were by the middle 1930's over 700 such organizations,⁴ of which the following are representative:

Examples of Fields of Activity and of Organizations in Each Field:⁵

Agriculture:	Int. Union of Telecommunications.
Int. Conference of Agriculture.	Education:
Int. Agrarian Bureau.	Int. Bureau of Education.
Art:	World Federation of Education Associations.
Int. Bureau of Musicians.	Finance:
Int. Commission of Popular Arts.	Int. Exchange Committee.
Communication and Transit:	Int. Committee of the Union of Bondholders.
Int. Railway Union.	
Int. Shipping Conference.	

¹ "International Organization," *Encyclopaedia of the Social Sciences*, The Macmillan Company, New York, 1937.

² Pitman B. Potter, *An Introduction to the Study of International Organization*, 4th ed., D. Appleton-Century Company, Inc., New York, 1935, p. 51.

³ *Ibid.*, p. 49.

⁴ *Ibid.*, p. 47.

⁵ ("International" is abbreviated "Int.") In many instances there are scores of organizations in one field of activity, notably so in trade and industry, science, and humanitarian concerns.

Humanitarian:	Int. Federation of Newspaper Managers and Publishers.
Int. Association for the Promotion of Child Welfare.	Religions:
Int. Society for Crippled Children.	Int. Union of Catholic Women's Leagues.
League of Red Cross Societies.	World Jewish Congress.
Int. League for the Protection of Native Races.	Int. Protestant League.
Intellectual:	World Congress on Faith.
Federation of Intellectual Unions.	Science:
Int. Institute of Philosophical Collaboration.	Int. Council of Scientific Unions.
Labor:	Int. Union of Chemistry.
Int. Federation of Trade Unions.	Int. Geological Congress.
Int. Transport Workers' Federation.	Sports:
Law and Administration:	Int. Gymnastic Federation.
Int. Bar Association.	Int. Boxing Union.
Institute of Int. Law.	Student Organizations:
Medicine and Hygiene:	Int. Student Service.
Int. Society of Surgery.	Int. Conference of Students.
Int. Council of Nurses.	Trade and Industry:
Int. Hospital Association.	Int. Chamber of Commerce.
Peace:	Int. Industrial Relations Institute.
Int. Peace Bureau.	Int. Dairy Federation.
Int. Committee for the Coordination of Forces Making for Peace.	Int. Federation of Retail Grocers.
Press:	Tourism:
Int. Federation of Journalists.	Int. Tourist Organization.
Press Congress of the World.	Central Council of Int. Touring.
	Int. Cyclist Union.

Organization and Functions. Members of any private international organization are free to effect any organizational arrangement they may desire.¹ Most of them find it convenient to employ the federative principle. Such organizations commonly maintain a central office and have a central agency of control and administration. A hierarchy of committees also frequently characterizes their organizational plan.

The activities of these organizations go on more or less continually. Much information is collected, compiled, published, and distributed. Meetings, often called "congresses," are held. While the number of meetings of private international organizations in

¹ See L. C. White, *Structure of Private International Organizations*, published by the author, Buena Vista College, Storm Lake, Iowa, 1933.

the last sixty years of the nineteenth century was 978, in the years 1900-1914 alone, 1443 such meetings occurred.¹ It is interesting to note that Americans are prominent in these organizations, often constituting from 40 to 75 per cent of the total world membership. They are active in the work of these associations, and in international meetings the American delegations are frequently the largest of any nationality represented.

Significance of Private International Organizations. Organizations of the character under consideration are influential in broadening horizons, curtailing provincialism, vitalizing world-wide contacts, promoting cooperative efforts, and stimulating a sense of world unity among the people of different races, nationalities, and cultures. Many of these organizations have for their express purpose the cultivation of international good will and understanding. Among the many possible examples of such are: Rotary International; International Federation of Committees for European Cooperation; International Friendships Association; International Committee for the Coordination of Forces Making for Peace; World Youth Community for Peace, Freedom, and Progress; and International Association of Social Progress. The organization of interests across national boundaries has developed "a cosmopolitanism which bids fair to exert a profound influence upon the international relations of the future. . . . It provides a firm basis for international cooperation."²

PUBLIC INTERNATIONAL ORGANIZATION

Meaning of Public International Organization. The vast subject of international organization is divided into two basic fields: "private international organization," discussed above, and "public international organization," to which we now turn and with which the remainder of this chapter will deal. The term "public international organization" refers to structural and functional arrangements between nation-states.

The central problem of public international organization is to reconcile the imperious demand for national liberty of action, on the one hand, with the necessity for cooperative effort on an international scale, on the other. (Hereafter in this chapter the term

¹ Potter, *op. cit.*, p. 48.

² *Ibid.*, pp. 57, 61.

"international organization" refers to "public international organization.") The struggle, which is intense and universal, is between independence and interdependence.

Sovereignty. A fundamental conception in this field is that of national sovereignty. Each state in our state system zealously maintains that it is sovereign, that is, it may act where, when, and how it pleases. It conceives of itself as independent of any power outside itself except as it elects to recognize the controls of international law. Under such circumstances international organization of the national states is possible only as the voluntary cooperation of the respective members of the family of nations can be secured.

Balance of Power. Under the basic concept of national sovereignty international anarchy inevitably prevails. One means the nation-states employ to minimize this condition, without at the same time risking the loss of their national existence, is to follow the principle of international politics known as "the balance of power." This means that in the struggle for power which goes on constantly among the nations, if any national state at any time becomes so strong as to jeopardize the survival of vital interests of other states, the menaced states combine their military and material resources to remove the impending threat and restore a satisfactory equilibrium of power. Throughout the modern era the balance of power has been "the most important single pattern of political action in the international arena."¹ The history of the Western world since the beginning of the sixteenth century records many examples of the application of this principle, two of which are the coalitions formed by national states to remove the menace of French hegemony (overlordship) in the Napoleonic era, and the combining of nation-states to resist the further expansion of German power in 1914.²

The whole field of international organization (public) may be considered conveniently under three main heads: (1) traditional international organization, (2) development of multilateral organi-

¹ Schuman, *op. cit.*, 2nd ed., p. 44. See this work for a brief account of the operation of the principle of balance of power in the period 1500-1815, pp. 44-64.

² At times two groups of nations or two Great Powers may be rather evenly matched in power. In this situation one strong state can by throwing its weight on one side or the other determine which nation or group of nations is to have the ascendancy. Thus it is said to "hold the balance of power." Great Britain has often been in this position.

zation, and (3) movement toward international federation. In the first of these three topics, four forms of organizational arrangements and their functioning claim our attention: international law, treaties, diplomatic service, and consular service.

TRADITIONAL INTERNATIONAL ORGANIZATION

International Law. Laws are necessary in any community to safeguard important rights and legitimate interests, and to provide a means of orderly adjustment of clashing forces. The foundation of international law was the desire of the nations for uniformity in their practices and reciprocity in their treatment of each other. "International law may be defined as a system of general principles and detailed rules which define the rights and obligations of the nations one toward another."¹ It is "the body of mutually consistent rules, principles, and standards observed in the practices, professions, and protests of members of the family of nations."²

Rise of International Law. Throughout the centuries of international relations the nations have been developing rules of law. "These rules were first systematically formulated and set down as principles of the 'Law of Nations' by Hugo Grotius. . . ."³ After Grotius came many jurists and scholars who wrote voluminously concerning the principles and rules of international law. As the contacts and rival interest of nations multiplied, a huge body of rules was developed. International law grew enormously through the development of an ever greater number of new situations in international life which necessitated a constant adaptation and elaboration of its principles. Their mere recital would fill a volume of considerable size. Many fat volumes would be required to afford an exposition of the many thousands of cases which have arisen and been settled by the application of rules of international law.⁴

Sources of International Law. There are four basic sources of international law. The most important one qualitatively is written

¹ Potter, *op. cit.*, p. 153.

² Brown, Hodges, and Roucek, editors, *op. cit.*, p. 401.

³ Schuman, *op. cit.*, 3rd ed., p. 100. Grotius, a Dutch scholar and diplomat, commonly called the father of international law, published in 1625 his monumental work entitled *De jure belli ac pacis* (*Concerning the Law of War and Peace*).

⁴ For a brief presentation of the subject of international law, see "International Law," *Encyclopaedia of the Social Sciences*, *op. cit.*

agreements. When a case is not covered by them (and many cases are not), then other sources of law are relied upon for the determination of the particular case. A second source of international law is custom. Quantitatively most of this law is so derived. Through long continued practice a large number of usages came to have the force of law. A third source may be termed "reason," which means that when a situation arises for which there are no precedents, and it is not covered by agreement or custom, then logical deductions from established principles are made and applied. A fourth way in which international law develops is by authority, that is, by awards and decisions of legally constituted international bodies of a judicial or quasi-judicial character. The authority of jurists, scholars, and text writers has also frequently been recognized.

Character of International Law. It is important to realize that international law differs sharply from national law. International law is rarely in statutory form, nor does it possess any agency empowered to enforce its rules. "There is no supernational state or judicial system which can enforce these rules; each state is the judge of its own case and is free to act on its own decision."¹ Ordinarily the established rules are respected by the nation-states. This respect is motivated by a desire for harmonious relations or by the pressure of political expediency, that is, the fear of retaliation. Although it exercises a continuous and beneficent influence in the regulation of international relations, nevertheless as long as the nations "refuse to give up certain concepts of extreme national sovereignty and ultra-nationalism, international law as an instrument of accord and world order will be sadly handicapped."²

Treaties. "The conclusion of treaties and their analysis and generalization among the states is a distinct branch of modern international cooperation."³ While some treaties constitute a part of international law, many others do not. Indeed, a treaty may give evidence of the fact that the states signing it propose "to treat one another in a manner at variance with the general rule of international law."⁴

¹ Bertram W. Maxwell, *International Relations*, The Thomas Y. Crowell Company, New York, 1939, p. 8.

² *Ibid.*, p. 10.

³ Potter, *op. cit.*, p. 124.

⁴ Frederick A. Middlebush and Chesney Hill, *Elements of International Relations*, McGraw-Hill Book Company, Inc., New York, 1940, p. 91.

Forms of International Agreements. A treaty is a written agreement between two or more nations which imposes a legally binding obligation upon the signatories. There are many different forms of written international agreements. The term "treaty" is employed either to refer to agreements in general or to designate the more formal and important political engagements entered into by the national states. One type of international agreement executed in increasing numbers is known as a "convention," which is employed for less formal, more specific, and more technical matters. Another interesting and significant type is that of "executive agreement." This does not bind the signatory nations but only the administrations which effect such engagements. However, they may at the option of succeeding administrations be continued in force. Presidents of the United States, particularly in the twentieth century, have made an increasing number of executive agreements which are not submitted to the Senate.

Procedure in Agreement Making. Whatever the particular form of international agreement, an established procedure is followed in bringing it into being. Many rules of international law have to do with the making of international agreements, for example, with their negotiation, necessary factors for validity, interpretation, and termination. While the whole process of effecting international agreements is in general highly formalized, some forms are more so than others. For example, executive agreements are relatively informal while treaties, in the narrow sense, are highly formalized. There are five steps in bringing a treaty on an important political matter into effect. (1) The negotiators, who must furnish documentary credentials for each other, meet. (2) These diplomatic representatives, regular or special, negotiate an agreement, draft it, and sign the document. (3) This document is ratified by the national authority empowered by the respective states to make legally binding treaties. The President of the United States ratifies our treaties "by and with the advice and consent of the Senate" which must act by a two-thirds vote.¹ (4) After ratification each signatory gives evidence to the others of the fact of this ratification, called "exchange of ratification." (5) The final step is the official promulgation of the agreement in each country and its actual execution.

¹ Constitution of the United States, Article II, Section 2, Clause 2.

Enforcement of Agreements. The enforcement of the obligations imposed by international agreements depends fundamentally upon the good faith of the signatory states involved, since there are no international enforcing agencies. In general it may be said that until recently the nation-states lived up to their treaty obligations rather scrupulously. However, in recent years a growing disregard for the obligations imposed by treaties has been manifest. The Versailles treaties of 1919 have been repeatedly breached.

Growth of Treaty-Making. While treaty-making is an ancient state practice, in the last 100 years its importance has continually and notably advanced.¹ Today a veritable web of treaty obligations covers the earth. At the present time the members of the state system "are bound together by some 10,000 treaties, covering every imaginable type of international interest."² Since 1776 the United States alone has effected over 850 treaties, of which 500 have been made since 1900 — indisputable evidence of our nation's increasing involvement in international life.³

The scope of the subject matter of international agreements has been commensurate with the great growth of the number of such agreements. Formerly the topics encompassed were few, being limited for example to peace treaties, treaties of alliance, and general commercial treaties. Now the subjects range through scores of international concerns; indeed, there is scarcely one omitted. Today international agreements include rather minute regulation of procedures, a host of detailed controls of economic activity, and a mass of items of a technological character, all of which were formerly not within the possibility of international treatment.

Importance of International Agreements. The central significance of international agreements is seen in the fact that they "have furnished the legal basis for the pacific regulation of a great variety of international interests."⁴ Through them the nation-states

¹ A partial record exists of a treaty consummated about 3000 B.C. The earliest treaty of which a complete record is existent was effected by two kings of city-states in Mesopotamia (now Iraq) in 1280 B.C. The ancient Greek city-states often negotiated and put into effect treaties with each other.

² "Treaties," *Encyclopaedia of the Social Sciences*, *op. cit.*

³ Within a period of four years in the 1920's "the United States negotiated over eighty treaties with thirty-one countries on nearly fifty different subjects. Other nations were equally active." Henry M. Wriston, *Prepare for Peace*, Harper & Brothers, New York, 1941, p. 155. The Constitution of the United States makes our treaties a part of the supreme law of the land. See Article VI, Section 2.

⁴ "Treaties," *Encyclopaedia of the Social Sciences*, *op. cit.*

"have been knit together through a closely integrated network of reciprocal rights and obligations into some semblance of a world community."¹

Diplomacy. The term "diplomacy" refers to a political mechanism and process by which the nations, to facilitate their intercourse, maintain at each other's capital an agent who represents his respective country. The importance of diplomacy can scarcely be exaggerated. It "is the oldest instrumentality of world organization."² Diplomacy is a universal and constant force of the first magnitude in international relations. It is the commonest and most available means through which the national states can adjust and promote their international concerns in an orderly manner. Diplomacy is the most salient instrumentality for maintaining and promoting cooperation among the members of our state system. In the great struggle for power, which is one of the chief characteristics of international life, diplomacy is an extremely important means of enhancing state power. As long as diplomacy succeeds, peaceful relations continue; when it fails, relations are strained and hostilities often ensue.³

Organization of Diplomatic Service. To effect diplomacy in international relations today an extensive organization is necessary. "The existing system first operated in Europe in the early seventeenth century; it has since become world-wide, having proved itself essential to modern government."⁴ A vast network of diplomatic organization interlaces the present-day world. Each nation maintains a foreign office in its capital which, on the one hand, is prepared to enable diplomatic representatives from all foreign countries to function there, and, on the other, to direct a field force of its own that operates in all foreign capitals. This world-girdling organization functions continuously. However, diplomatic relations between states may on occasion be interrupted.

Diplomatic relations are always terminated between nations

¹ "Treaties," *Encyclopaedia of the Social Sciences*, *op. cit.*

² Brown, Hodges, and Roucek, *op. cit.*, p. 411. As early as the fourteenth century B.C. the Egyptians and Hittites practiced diplomacy.

³ The importance of diplomacy in the life of a nation is attested by the fact that it is prominent in the history of each nation. Much has been published on the subject of American diplomacy. Many diplomatic histories are available, a recent example of which is that of Thomas A. Bailey, *A Diplomatic History of the American People*, F. S. Crofts & Co., New York, 1940.

⁴ "Diplomacy," *Encyclopaedia of the Social Sciences*, *op. cit.*

when war is declared. A nation also sometimes severs this connection when it desires to indicate that it strongly protests the policy or action of some other nation. Before a new state can enter into diplomatic relations with other states, it must be "recognized" by them. This normally is accomplished by a formal declaration on the part of each existing state. The declaration indicates a disposition to regard the new entity as a state. Ordinarily it is followed by an exchange of diplomatic agents. The recognition of a new state is entirely optional with each nation already in the state system.

A third instance in which diplomatic relations may be interrupted is seen in the case of revolution in a country. The new government must seek the recognition of nations any one of which can place the new administration under pressure by withholding its recognition. The United States has often exerted pressure on governments established by revolution in Latin-American countries. The government which came into being in Russia as a result of the revolution of 1917 was not recognized by the United States until 1933.

To promote the efficiency of the diplomatic system the nations have found it desirable from time to time to establish rules for its organization and operation. A salient example of an organizational arrangement is that of the creation of a definite system of ranking diplomatic agents. At the Congress of Vienna (1815) and Aix-la-Chapelle (1818) the nations established four ranks, a plan which is followed today. Diplomats of the first rank are ambassadors. (An ambassador's establishment in which he and his staff carry on their work is called an "embassy.") Second in the diplomatic hierarchy are envoys and ministers. (Their establishments are called "legations.") Their full title is envoys extraordinary and ministers plenipotentiary (full power). The third rank is ministers resident, one which is relatively little used today. The fourth rank is *chargés d'affaires*. In line with the creation of diplomatic ranks, which was effected to eliminate endless wrangling as to authority, prerogatives, and precedence among diplomatic agents, some nations, including the United States, have adopted two other rules. In a particular capital precedence is given in accordance with seniority within each of the four ranks. For example, if the ambassador at Washington from Spain has been there longer than the ambassador from

Italy, the Spanish ambassador would have precedence over the Italian ambassador. A second rule is that of reciprocity, that is, for example, if Cuba gives the rank of ambassador to the diplomat it sends to the United States, we send an ambassador to that country.¹

Function of Diplomatic Service. More and more those in the diplomatic service constitute a body of experts. A position in a diplomatic corps is one of dignity, responsibility, and honor. To represent a nation abroad requires intelligence, judgment, tact, and administrative capacity.

Through its diplomatic agents each nation has eyes and ears in the other countries. They observe and report anything of significance which exists or is developing. Basically, the function of the diplomatic service of any particular country is to protect and advance all its political interests throughout the world. The diplomat, in whatever foreign country he serves, labors to adjust differences, reduce frictions, maintain cordial contacts, and promote in every possible way peaceful relations between that country and his own.

Diplomatic Service of the United States. In order to obtain most easily and vividly a mental picture of the whole world-wide diplomatic system, "it is best to think first of the mechanism maintained by one country and then of all the national mechanisms as they articulate throughout the world."² Accordingly we shall observe that of the United States.

American Diplomatic Organization. Our diplomatic service is organized by Congress. At its head is the President of the United States whom the American people hold responsible for the conduct of their country's foreign relations. He controls all activities through his subordinates, the chief of whom is the Secretary of State. The Secretary has several assistants who aid him in administering the vast activities of the Department. This Department in Washington is organized into divisions, bureaus, boards, and offices, each with its particular tasks to perform. The multitudinous activities carried on at our capital proceed continuously. Their

¹ To enable diplomatic agents to function successfully the nations accord the foreign representatives certain privileges and immunities. For example, their persons, households, staffs, archives, and communications are inviolable. They have freedom of worship and are exempt from all local taxes.

² Brown, Hodges, and Roucek, *op. cit.*, pp. 413-414.

mere recital here may serve to suggest the vast scope and importance of the work done.

Functions of American Diplomatic Service. A large personnel both for work at our capital and service abroad must be directed. Personnel administration includes a large number of items, for example: recruitment, training, assignment, promotion, efficiency ratings, retirement, and maintenance of morale. Supervision of all activities at our capital and abroad must be effected. Instructions are sent to our diplomatic agents scattered over the whole world, and from them come countless reports and queries. Vast quantities of information are collected, recorded, filed, and distributed. Advice is constantly given the field force. A huge correspondence is carried on, and each year thousands of telegrams are sent and received. Records covering manifold activities must be kept. (The State Department's record of the peace conference held at the close of the First World War fills 537 volumes.) A considerable amount of editing and publishing is done. Travelers must be served, passports issued to Americans going abroad, and visas of foreigners examined here. Ceremonies, too, must be arranged and executed.

Abroad each diplomatic post must be organized and administered.¹ In each, our diplomatic agent and his staff carry on important activities. Our diplomatic representatives abroad strive to safeguard and promote our national concerns, create good will, enhance international confidence, foster cooperation, discover common interests, detect inimical developments, allay dissatisfaction with our policies, maintain favorable relations with the foreign press, and negotiate with the respective governments concerning whatever may arise which threatens to disturb friendly relations.

All this is the organization and the activities through which the United States conducts its diplomatic relations.² For the world view of the diplomatic service one needs to realize that every other nation, each in ratio to its importance in the family of nations, maintains a similar organization through which like functions are performed.

Consular Service. As in the case of diplomacy, a world-wide consular organization is maintained by the nation-states. Each

¹ In 1940 the United States maintained twenty embassies and thirty-three legations.

² "The total number of diplomatic and consular officers sent from Washington to foreign posts is well above 1,300." Schuman, *op. cit.*, p. 157.

country sends consular agents to the other nations and receives such officials from them. The consular service is older and larger than the diplomatic service. "With the growth of economic interdependence and the opening of new territory to economic exploitation, there has been a very great increase in the number of consuls in the world."¹ While diplomatic representatives are concerned with the political contacts of the nations, consular agents have to do with commercial interests and their nationals abroad. Diplomacy centers in capital cities, but the consular activities are carried on in all cities of outstanding commercial importance, especially seaports.² The size of any particular country's consular service and its importance to the respective nation is commensurate with the scope and magnitude of its foreign trade and commerce.

Organization of Consular Service. Just as in the case of diplomacy, a consular system requires organization to effect its functions. Each country with commercial interests abroad maintains within its government an administration for the promotion of consular activities, and establishes an organization abroad. The home office is organized to effect personnel administration; acquire, publish, and distribute information; carry on correspondence; and keep records. The nations classify their consular force abroad in this manner: At the top is the consul general who directs activities in an area which includes a number of consular posts. Second in rank comes the consul who is in charge in the more important commercial cities. The vice-consul is third in rank. He serves in the less important cities. At the bottom of this hierarchy is the consular agent who is a part-time employee, consular work at his city not being of such volume as to require his full attention.³

Consular Functions. Basically, nations maintain consular services for a dual purpose: to protect and assist their nationals abroad;

¹ Middlebush and Hill, *op. cit.*, p. 158.

² Today approximately 17,000 consuls are stationed abroad by the national states.

³ In 1924 the Congress of the United States enacted a statute which greatly increased the efficiency of our diplomatic and consular services. This was the Rogers Act, which accomplished two notable improvements: It largely eliminated the spoils system in this field, establishing in its stead the merit system; and it amalgamated the diplomatic and consular services into the "Foreign Service of the United States" within which thirteen grades of civil servants were established — nine classes of "foreign-service officers" and four grades termed "unclassified." For a brief exposition of the Rogers Act, see Schuman, *op. cit.*, pp. 158-159.

Today almost three-fourths of our foreign-service officers are college graduates; only about 7 per cent of such officers have had no college training whatever.

and to protect and promote their commercial interests in foreign lands. To effect these two fundamental purposes necessitates a host of activities on the part of members of the consular service. Here only a few of these may be suggested.

A consul can and does help two groups of his fellow nationals — seamen and those traveling or living abroad. Seamen, by virtue of the nature of their occupation, are often in need of protection and assistance. Travelers find the services of a consul helpful in a great number of ways. His intercession on their behalf may save them considerable embarrassment and inconvenience. He may even prevent injustice by appearing for them when they are involved in local courts. The service of the consul to his nationals even extends, in case of their decease abroad, to the conservation of their property interests and to the shipment of their bodies back to the homeland.

For his government the consul performs many valuable services, for example, seeing to it that commercial treaties, customs regulations, immigration laws, and health regulations are observed. Much of the consul's time and energy is devoted to tasks assigned him by his government which it undertakes in order to protect and promote the trade and commerce of its citizens and corporations. He, for example, issues many papers in connection with shipping, such as landing certificates for vessels and certification of invoices; he reports continually and minutely upon business conditions, thus making available invaluable information for the exporters and importers of his country, and strives to increase the trade of his countrymen by finding new and better markets.

Importance of Consular Service. Without the consular service the life of seamen would be more difficult and precarious. Were there no consular assistance, the traveler abroad would experience many difficulties; touring would be much less pleasurable. Businesses interested in foreign trade, were it not for the wide variety of consular activities pursued in efforts to protect and promote such enterprises, would be confronted with serious difficulties and suffer severe handicaps. It is difficult to see how the nations, especially the industrial countries, could carry on foreign trade at all satisfactorily without the consular service. It should be noted, moreover, that the importance of this service is growing as foreign travel and international commercial intercourse increase.

DEVELOPMENT OF MULTILATERAL ORGANIZATION

International Institutions. Although the forms of organization reviewed above are important, those about to be presented are vastly more significant. In the case of international law, treaties, diplomatic organization, and consular framework, the structures and processes are predominately of a bilateral character, that is, they have to do with intercourse between two states. In them no genuinely international agencies are created; in none are the nations subjected to an international authority. They are of a preinstitutional character, and they afford no integrated machinery to make effective the collective will of the world community. Under them "Each state has made its own arrangements with each other state separately, and dealt with those with whom it was pleased to deal."¹ The great need in the international relations of the present-day world is the development of organization above the level of bilateral arrangements. Today world concerns, if they are to be dealt with adequately, require multilateral action, truly international agencies which can effect on a more or less universal scale legislative, judicial, and executive functions. These three general functions are always found necessary in any effective political organization at whatever level of government. We now turn to observe the development of multilateral action in three fields: pacific settlement of disputes, international conference, and international administration.

Pacific Settlement of Disputes. In our state system composed of sovereign states, the people of which are motivated most potently by nationalism, it is inevitable that controversies should arise. One of the fundamental problems of international organization is to develop more adequate machinery for the pacific settlement of disputes, and a will to use such machinery.

The members of the family of nations have five means for the adjustment of their disputes: war, methods short of war, ordinary diplomacy, special negotiation, and judicial procedure. War, the resort to force of arms, is the ultimate means employed by states for the settlement of their disputes, and fortunately recourse to it is not ordinarily had except in the case of the most serious

¹ Clyde Eagleton, *International Government*, The Ronald Press Company, New York, 1932, p. 225.

conflicts of national wills. The nation-states on occasion use methods which may be described as "short of war," in each of which an element of coercion is present. Examples are: threats of force, such as mobilization of military forces; drastic action of an economic character, such as suspension of commercial relations or boycott; reprisals, as seen in the establishment of a blockade or even actual intervention.

Use of Third Parties. Although the vast majority of the points of difference among nations is ironed out by ordinary diplomacy, that is, by direct discussion between regular diplomatic representatives, the more serious controversies are adjusted on occasion by special negotiation, one form of which is the use of third parties (states). In a considerable number of controversies a third state is instrumental in effecting a settlement.

First, a state friendly to the disputants extends its "good offices," that is, proffers its assistance. If this is accepted a channel of communication and a place in which they can meet for discussion are afforded the states in controversy. Secondly, the third state may go beyond the extension of its "good offices" and offer to mediate, that is, submit its judgment on the dispute and present a plan for settlement. Thirdly, with the approval of the disputants, the third state may proceed to attempt a reconciliation, that is, the actual settlement of the dispute. This process may even be effective in ending actual hostilities between two nations. For example, in 1905 President Theodore Roosevelt extended "good offices" to Japan and Russia which were at war. His offer was accepted and he was empowered by these belligerents to act as mediator, with the result that he arranged a peace conference at Portsmouth, New Hampshire, at which a settlement was effected which terminated the war.

Methods "Short of Arbitration." Three procedures for the pacific settlement of disputes may be designated as "methods short of arbitration." These are the use of *mixed commissions*, *commissions of inquiry*, and *commissions of conciliation*. While the use of third parties to adjust disputes is scarcely of an institutional character, the employment of any of these commissions may be regarded as a form of quasi-international adjudication.

A mixed commission is made up of an even number of representatives chosen by the two states in dispute. The members are often

technical experts; at any rate the disputants regard them as qualified to deal with the controversy. When the facts are ascertained the commission makes recommendations for the settlement of the dispute. In 1903, for example, the United States and Great Britain adjusted a boundary dispute involving Alaskan and Canadian territory in this manner. A commission of six representatives, three American and three British, examined the matter and by a vote of four to two decided that the American contentions were the more meritorious. On a basis of this recommendation a settlement was effected.

A commission of inquiry is similar to a mixed commission, but there are these two differences: the function of the former is limited to fact-finding, whereas the latter may also propose a settlement of the dispute; the former is composed of an odd number of members, each country choosing the same number of representatives and all these representatives selecting one who is not a national of either disputant, whereas the latter is made up of an even number of negotiators.¹

Sometimes two nations in controversy organize a third type of commission, similar in general to the above two, called a "commission of conciliation," to attempt a settlement of their dispute. Such an agency may examine the facts, and proceed with mediational efforts to bring about an adjustment of the controversy.

No hard and fast lines can be drawn as to the use of these three commissions. Nations in any particular case are free to decide which, if any, of them will be utilized. They, in similar circumstances, decide to employ sometimes one, at other times another. It is important to note that in no case are states bound by the action of any of these three commissions. The disputants may or may not accept what such agencies offer them. It is also to be observed that when any one of these commissions is employed, it is set up to deal only with particular disputes and is dissolved when it has acted thereupon. If agencies of a permanent character were established, quarrels over the personnel of such bodies would be much minimized, and they would be ready for service as soon as a controversy arose.

¹ At the great Hague Conference in 1899, in which twenty-six states including the United States were represented, it was recognized that fact-finding commissions could be definitely helpful in adjusting disputes, and the conference took steps to promote the use of this procedure.

In an effort to institutionalize this procedure [use of commissions] the United States through Secretary of State Bryan, proposed to other states in 1913 the negotiation of a series of bilateral treaties which should set up permanent boards or commissions of conciliation to which all disputes, without exception, should be submitted.¹

Included too in his plan was this: each commission was to have a period of a year in which to make its report on any particular case, during which time there were to be no hostilities. The results of Secretary Bryan's admirable proposal were: thirty such treaties, soon referred to as "cooling-off" treaties, negotiated; twenty treaties ratified; ten commissions actually established; no commission "was ever utilized for the settlement of any dispute, and the entire scheme has been allowed to lapse."²

Arbitration. To effect the pacific settlement of their disputes the national states have developed machinery of hierarchial significance: at the bottom is ordinary diplomacy; second, special negotiation, for example, use of third parties; third, methods short of arbitration, that is, as we have seen, the use of some form of commission; and at the top, legal procedures — arbitration and adjudication.

Main Features and Use of Arbitration. While arbitration is an ancient practice, having been employed by the Greeks before the Christian era, its use in modern times dates from our Jay Treaty of 1794. When nations turn to arbitration, they submit their controversy to one or a number of arbitrators. There are four important features of this process: First, the act of submission to the process is voluntary. Second, the nations involved choose their own arbitrators. Third, while the arbitrators are mindful of the principles and rules of international law, they may freely include in their consideration whatever extralegal facts they deem relevant to the controversy. Fourth, and of great significance, the nations, once they submit a matter to arbitration, must accept whatever award is made in any particular case.

From the Jay Treaty of 1794 to the opening of the present century the nations have effected the arbitration of disputes more than 400 times.³ Since 1900 resort to this form of pacific settlement has

¹ Schuman, *op. cit.*, 2nd ed., p. 159.

² *Ibid.*

³ Schuman, *op. cit.*, 2nd ed., p. 161. One of these 400 cases was that of the *Alabama Claims* (1871) in which an award of \$15,500,000 was made to the United States, Great Britain being obliged to pay this sum for the damage which our nation suffered by virtue of her action in equipping Confederate cruisers in our Civil War period.

been even more frequent than in the nineteenth century. Today no procedure for the pacific settlement of disputes is more fully established than that of arbitration.

Evolution and Limitation of Arbitration. It is rather easy, however, to overestimate the importance of arbitration, for while it is undoubtedly commendable in theory, its practical use is seriously limited, owing to the fact that the states are generally unwilling to submit vital matters to this procedure.

There have been three general steps in the development of arbitral procedure. For some time nations desirous of resorting to arbitration drew up a special agreement (*compromis d'arbitrage*) in which the requisite preliminary arrangements for this procedure were set forth. Later the states began to include in their ordinary treaties a provision which required the submission to arbitration of disputes arising thereunder. The third and by far the most significant step was the negotiation of general arbitration treaties in which it was agreed that all controversies be arbitrated. Arbitration under these treaties is said to be "compulsory," but much liberty of action is reserved by the signatories through the insertion of significant exceptions as, for example, the exclusion of all cases which involve a nation's independence, honor, or vital interests. Thus any signatory was afforded abundant opportunity to refuse to arbitrate whenever it desired.

Many national states have concluded general arbitration treaties, but the United States, although loud in proclaiming its devotion to the idea of arbitration, really "has long been in the rear of the procession of states entering into arrangements of this kind."¹ The Senate is largely responsible for this backwardness.² When our whole record is surveyed, it is clear that in disputes with strong countries the United States has been considerably more disposed to resort to arbitration than in the case of controversies with weaker countries, notably with Latin-American states.

Permanent Court of Arbitration. At the first Hague Conference in 1899 an effort was made to institutionalize the employment of arbitration. The result was the establishment of the Permanent Court of Arbitration. Although its creation was forward-looking its importance should not be overestimated, for it was not really

¹ Schuman, *op. cit.*, 2nd ed., p. 164.

² For an explanation of the role of the Senate in this matter, see *ibid.*, pp. 164-166.

a "court," nor was it permanent. Under the agreement which set up this court, each signatory selected four arbitrators who served for a term of six years. An international bureau, established at The Hague in the Netherlands, kept a list of the arbitrators selected by the respective nations. From this list any states wishing to resort to arbitration might pick their arbitrators. Under this arrangement, whether states will in any particular case employ the arbitral procedure, is entirely an optional matter.

Adjudication. While each of the forms of pacific settlement we have considered above has played a part in providing the states with orderly methods for dealing with their controversies, a further development was desirable. There was serious need for a judicial development comparable to that existing within each national state. "The judicial function is clearly as indispensable to the international as to the national organization of order, justice, and the pacific settlement of disputes."¹ What the world community required was the establishment of a process of true adjudication. In genuine adjudication, in contrast with arbitration,² a judicial body, permanent and continuous, composed of members not selected by the disputants, would apply the principles of international law, and proceeding from case to case, would build up a body of precedents under which consistent decisions could be effected. It is clear that no such judicial process could operate without the maintenance of an international court.

The idea of an international tribunal had long been in the minds of statesmen. The best that could be achieved officially up to the twentieth century was the creation of the Permanent Court of Arbitration (1899) which was in no sense a court. But, since statesmen remained conscious of the need for an agency able to effect true adjudication, at the second Hague Conference in 1907 efforts were exerted to establish an international tribunal.³ But these efforts were unfruitful, being blocked chiefly by disagreement as to the number of judges who should sit on the proposed court, and as to the method by which the judges were to be

¹ Brown, Hodges, and Roucek, *op. cit.*, p. 467.

² For an exposition of the differences between arbitration and adjudication, see H. Arthur Steiner, *Principles and Problems of International Relations*, pp. 258-264.

³ The American delegates to this conference were instructed by the Secretary of State, Elihu Root, to work for the creation of an international court whose judges would give their full time to the trial and decision of international cases.

selected.¹ In 1907 the five republics of Central America established the first genuine international tribunal, the Central American Court of Justice. This court "was permitted to die in 1917 after the United States and Nicaragua proved unwilling to abide by its unfavorable judgment concerning the validity of the Bryan-Chamorro Treaty of 1914" (between the United States and Nicaragua).²

Incomparably the most notable step in the direction of providing the nations a genuine international tribunal capable of true adjudication came in the early 1920's with the establishment of the Permanent Court of International Justice, popularly referred to among Americans as the "World Court."

International Conference. The development of multilateral organization in our state system is not limited to the forms of pacific settlement of disputes. Another field of international activity in which this significant process is evidenced is that of international conference.³ The scope and frequency of international conferences, composed of representatives of several or many nations, constitute one of the outstanding developments in the whole field of international organization. Whereas formerly nations could bring themselves together only to discuss questions pertinent to the reestablishment of peace at the close of a war, now they meet much more frequently and deal with a large number of subjects. The United States, for example, in 1930 was represented at sixty-one conferences; in 1931, fifty; 1932, twenty-three; 1933, fifty-one; and in 1934, fifty-nine.⁴ "The subjects dealt with by international conferences range over the whole field of international relations."⁵

This great development bears eloquent testimony to the recognition of common concerns and to an increase of confidence in this method of dealing with international problems. The underlying assumptions of this movement are significant: that there is a

¹ In our state system the nations, regardless of actual size or power, are legally equal. Naturally each of the forty-four states of this conference wanted to be represented on the prospective tribunal. This would have made the court entirely too large. The smaller states were unwilling to grant the great powers any preponderant influence in the proposed court.

² Steiner, *Principles and Problems of International Relations*, *op. cit.*, pp. 263-264.

³ For a stimulating presentation of the topic of international conference, see Potter, *op. cit.*, pp. 176-200.

⁴ Schuman, *op. cit.*, 2nd ed., p. 126.

⁵ Potter, *op. cit.*, p. 178.

community of interest, that problems can be discussed with mutual advantage, and that problems can be solved by the employment of this method. The conference habit which is rapidly developing among the nation-states is a genuine source of encouragement to those concerned with the creation of a better world order. Among all the forms of international organization which exist today, none appears more dynamic or potentially creative than that of conference. The League of Nations has played a stellar role in promoting a conference habit of mind.

International Administration. The growth of international administration constitutes a third main phase of the development of multilateral organization. (The other two are the pacific settlement of disputes and conference. See above.) The revolutionary development of communication and transportation, the vast expansion of international trade and commerce, and the great growth of humanitarian concerns, created conditions in the nineteenth century which pressed the nations imperiously for permanent agencies which could administer their world-wide concerns.¹ To meet this situation the national states, by multilateral agreements, created permanent international administrative organs, usually called "bureaus" or "commissions." These deal chiefly with such important aspects of world life as trade, finance, communication, navigation, transportation (land and air), health, and morals.

A notable growth of international administrative agencies has occurred in the last hundred years. By the middle 1930's there were over forty of them.² In addition scores of matters not sufficiently important to warrant the attention of an international bureau or commission are handled by means of multilateral conventions (agreements). The United States has been a signatory of many of these conventions and is a member of most of the administrative unions.

The national members of these international agencies submit to the administrative direction of the respective central bureaus (headquarters) and share under equitable arrangements the financial obligations entailed. From time to time the nations send representatives to meet in congresses which discuss the problems

¹ For accounts of the rise and significance of international administration, see Potter, *op. cit.*, pp. 201-218, and Schuman, *op. cit.*, 3rd ed., pp. 205-211.

² Potter, *op. cit.*, p. 202.

met in operating a particular administrative agency, modify former rules, make new regulations, revise organizational machinery, restrict or extend services, and in short do anything that will promote the effective operation of the bureau.

An excellent example of an international administrative agency is that of the Universal Postal Union, which was created in 1874.¹ Its operations cover the entire world. From its permanent headquarters at Berne, Switzerland, the national postal systems are coordinated and integrated. The volume of its business increased 2000 per cent in its first fifty years. Through the smooth functioning of this agency the peoples of the world enjoy a postal service incomparably more satisfactory than could otherwise be had.

International administrative agencies are indispensable in our present world community. Their manifold and important activities are conducted with a minimum of bickering, contention, and antagonism. Here there is very little of the struggle for power which characterizes the political contacts of the nations. It is the absence of power politics which explains the growth and smooth functioning of international administrative agencies. They do not deal with those elements in the life of the family of nations which produce discord, stir controversy, and foment hostility.

MOVEMENT TOWARD INTERNATIONAL FEDERATION

The League of Nations. The establishment of the League of Nations, which was created in the Peace Conference of 1919 and began operation on January 10, 1920, with forty-two nations as members, was by far the most comprehensive and advanced step ever taken in the field of international organization. It was not a sudden political invention. Back of it lay centuries of dreaming, planning, and effort, all focused upon affording the world community a more adequate organization. From medieval times on, especially after wars in the modern era when the losses, the folly, and the brutality of war were vividly before their minds, statesmen repeatedly brought forth blueprints for world organization.² While

¹ For an excellent description of the operation of this Union, see Sharp and Kirk, *op. cit.*, pp. 170-174.

² See Schuman, *op. cit.*, 2nd ed., pp. 177-185, for a summary of these plans. "The idea of a World Community of Nations is not new. It has been the logical goal of all political thinking since the first organization of the city-state in ancient Greece." Brown, Hodges, and Roucek, *op. cit.*, p. 431.

these plans varied widely in detail, it is significant that characteristic of many were provisions for an international deliberative body, judiciary, and police force. Furthermore, the idea of a league of nations in the First World War period (1914–1918) was not the brain child of President Woodrow Wilson, although he was the great exponent of the League of Nations at Versailles in 1919.¹

The constitution of the League of Nations, called the "Covenant," was made an integral part of the Treaty of Versailles. Nations signing this treaty thereby also became members of the League of Nations. A world-wide membership was contemplated.² The number of members has varied; during the 1920's the average of membership was about fifty-five. The maximum number reached was sixty in 1934.³

General Structure of the League of Nations. In the broader sense the structural framework of the League of Nations included these three organizations: the League proper, the International Labor Organization, and the Permanent Court of International Justice (World Court). The League proper was organized into and functioned through an Assembly, a Council, and a Secretariat.⁴ Our survey of the League of Nations will include merely a brief indication of the organization and function of each part of the whole project, and a cursory appraisal of the League's success and failure.

¹ During the First World War proposals for some sort of league were made in several countries. A number of projects of this character were promoted in the United States. In 1915, for example, a program was formulated by prominent leaders, among whom were eminent Republican statesmen, for a "League to Enforce Peace." While President Wilson did not at first father the idea of a league of nations, in the Versailles Conference (1919) he was the champion of the idea that the world must have such an organization. And had it not been for his insistence, the League of Nations would not have been born then.

² The Covenant made provision for three classes of members, each of which was on an equal footing once in the organization: states signing the Treaty of Versailles or any of the other three treaties of 1919–1920 (St. Germain, Austria; Trianon, Hungary; Neuilly, Bulgaria); nations acceding to the Covenant upon invitation (neutral countries in the First World War); and states seeking membership after the launching of the League and elected to membership in it.

Membership in the League could be terminated in any one of three ways: by a member-state serving a two-year notice of a desire to withdraw; by the expulsion of a nation-state member by the Council of the League for violation of the Covenant; and by a member state dissenting from an amendment to the Covenant.

³ On Mar. 31, 1940, fifty-one states were members of the League of Nations. *The Statesman's Year-Book*, 1940, Macmillan & Company, Ltd., London, 1940, p. xxii. The members, as of this date, are listed there.

⁴ For a description of the organization and functions of the League of Nations (including the International Labor Organization and the Permanent Court of International Justice), see Potter, *op. cit.*, pp. 325–494.

The Assembly of the League. Each nation-member of the League was represented in a body called the "Assembly." While each member could have three delegates (with alternates) in attendance, each member had only one vote. The Assembly met once a year regularly and held special sessions when it deemed them advisable. It had a president and twelve vice-presidents. Just as in our American legislative bodies, the Assembly accomplished its most important work through the use of standing committees which reported to the whole body.¹

The Covenant gave the Assembly broad powers. "As a deliberative body, the Assembly considered general political, economic, and technical questions of international interest."² Besides deliberation this body had many other functions among which, for example, were the election of new members to the League, the selection of the nonpermanent members of the Council, the election (with the Council) of the judges of the Permanent Court of International Justice, the amendment of the Covenant, and the control of the budget.³ The Assembly became "the supreme organ in the system of the League."⁴

The Council of the League. The Council met four times a year regularly and held special sessions from time to time. In an effort to balance the Great Powers and the Lesser Nations, the Council was composed of permanent and nonpermanent members. The original plan was to have five of the former (the five Great Powers, including the United States but excluding Germany and Russia), and four of the latter positions, which were to be rotated among the members that were not Great Powers. Friction repeatedly developed among the member-states of the League as to the size of the

¹ There were seven of these committees: Budget and Administration; Economic, Finance, and Transit; Health, Opium, and Intellectual Cooperation; Legal and Constitutional; Limitation and Reduction of Armaments; Political; and Social. A General Committee coordinated all the work of the Assembly.

² Schuman, *op. cit.*, 3rd ed., p. 220.

³ The annual budget of the League of Nations, including the Permanent Court of International Justice and the International Labor Organization, was usually about \$6,000,000. The cost of one large battleship would have defrayed the expenditures of this international organization for a period of more than six years. The cost of operating the League was apportioned among its members according to a scale of units. In 1939, for example, with a total of 923 units, Great Britain paid 108 units, France 80, Spain 40, and so on down to the smallest countries which paid one unit. Schuman, *op. cit.*, 3rd ed., p. 221.

⁴ "League of Nations," *Encyclopaedia of the Social Sciences*, *op. cit.*

Council and as to the allotment of membership in it. The Council has varied in size from nine to fifteen members. In 1939, there were three permanent members (Great Britain, France, and Russia) and eleven nonpermanent members. A president is elected by the Council which may be thought of as constituting a cabinet.

The Council was the League's executive organ. The Covenant granted the Council rather extensive powers, some of which it exercised with the Assembly, as for example the selection of the judges of the Permanent Court of International Justice. The Council had many administrative duties, among which for example were the direction of the Secretariat, the appointment of committees, the calling of conferences, and receiving reports. But "the most important function of the Council was the settlement of international disputes."¹ Upon the Council the Covenant placed primarily the task of maintaining peace in the world.

The Secretariat of the League. A third major organization in the League of Nations proper was the Secretariat. It was the administrative organ of the League without which the Assembly and Council could not have functioned. At its head was the Secretary-General, who with the aid of subordinate executives directed the manifold activities of this organ. The total staff, constituting a true civil service, numbered between 600 and 700. There were twelve great sections within this administrative agency, each headed by a director.²

This organ did the secretarial work for both the Assembly and the Council. It also purchased supplies, carried on extensive research, prepared reports, and did much routine work. The Secretariat gathered, compiled, and published a huge amount of information much of which was of genuine significance in international relations.³ The services rendered by the Secretariat have been highly praised by scholars, one of whom, for example, declared it was the "backbone of the League."⁴

¹ Schuman, *op. cit.*, 3rd ed., p. 222.

² These sections were: Central (Coordination), Communication and Transit, Disarmament, Economic Relations, Financial and Economic Intelligence, Information, International Bureaus and Intellectual Cooperation, Health, Legal, Mandates, Minorities, and Political.

³ For a list of the principal publications of the League, see *The Statesman's Year-Book, 1940, op. cit.*, p. xxvi.

⁴ Potter, *op. cit.*, p. 431.

International Labor Organization. The International Labor Organization was created by the Peace Conference at Versailles in 1919.¹ This organization, though distinct from the League proper, was an integral part of the whole League system.² While all members of the League were *ipso facto* members of it, states could join this organization without becoming members of League.³ The headquarters of the International Labor Organization were at Geneva, Switzerland.⁴

The framework of the International Labor Organization paralleled in general that of the League of Nations proper. It had three organs: the Conference, the Governing Body, and the International Labor Office.

The Conference, a body which afforded labor a world parliament, was to the International Labor Organization what the Assembly was to the League proper. It met annually. In it sat a delegation of four representatives from each national member. Two of these delegates represented their national government; one, organized labor; and one, organized employers. The Conference deliberated upon all matters of concern to labor. It heard reports, made recommendations, and determined matters of general policy.

The Governing Body, a board of managers, supervised the work of the International Labor Organization. Its function paralleled in a general way that of the Council in the League proper. The Governing Body, composed of thirty-two members, met every three months. Sixteen members represented national governments; eight, employers; eight, labor.

The International Labor Office was the permanent administrative organ of the International Labor Organization. Its work compared with that of the Secretariat of the League proper. With

¹ This Conference appointed a commission to draft a constitution for this organization which might be termed "A League of Nations for Labor." The chairman of this commission was Mr. Samuel Gompers, then the president of the American Federation of Labor. The draft of the commission was incorporated in the peace treaties.

² Schuman, *op. cit.*, 3rd ed., p. 226.

³ The United States by joint resolution of Congress became a member in June of 1934.

⁴ For brief accounts of the organization and functions of the International Labor Organization, see "International Labor Organization," *Encyclopaedia of the Social Sciences*, *op. cit.*, and Brown, Hodges, and Roucek, *op. cit.*, pp. 471-486. For a full exposition, see F. G. Wilson, *Labor and the League System*, Stanford University Press, Stanford, California, 1934.

a staff of some 600 experts and clerks it served the Conference and the Governing Body. It collected information, analyzed conditions, and prepared reports.¹

The International Labor Organization

. . . prepared the way for the formulation of international standards of labor legislation and constituted a useful agency for the collection and publication of labor statistics; it promoted the crystallization of attitudes and policies on the part of governments, employers' associations, and labor unions in member states.² It should be noted, however, that all its actions were purely advisory.³

The Permanent Court of International Justice. A third part of the League system is the Permanent Court of International Justice to which Americans commonly apply the term "World Court."⁴ Article XIV of the Covenant empowered the Council of the League to establish a Permanent Court of International Justice. A commission was appointed in 1920 to draw up a constitution for the tribunal.⁵ The commission prepared a statute (constitution) which was ratified by the member-states of the League. Judges were elected in 1921 and they convened early in 1922.⁶

This court was composed of fifteen judges whose term was nine years. They were elected by the Assembly and the Council of the League of Nations.⁷ No limitations were set upon the subject matter of controversies over which this tribunal could exercise jurisdiction. But it is important to note that in every case its jurisdiction had to be "traced to the consent of the contesting parties

¹ The International Labor Organization developed the finest library of its kind in the world. In its catalogue in 1934 were 400,000 items in over thirty languages; on its shelves were almost 4000 periodicals published in forty-five languages and gathered from over 100 countries. Brown, Hodges, and Roucek, *op. cit.*, p. 474.

² Schuman, *op. cit.*, 3rd ed., p. 228.

³ *Ibid.*

⁴ For brief accounts of this tribunal, see "Permanent Court of International Justice," *Encyclopaedia of the Social Sciences*, *op. cit.*; Brown, Hodges, and Roucek, *op. cit.*, pp. 452-469; and Steiner, *op. cit.*, pp. 264-275. A comprehensive treatment is had in M. O. Hudson, *The Permanent Court of International Justice*, The Macmillan Company, New York, 1934, or *The World Court, 1921-1938*, World Peace Foundation, Boston, 1938.

⁵ Elihu Root, an eminent American statesman, served on this commission.

⁶ The Court sat at The Hague in the Peace Palace erected by Andrew Carnegie, an American industrialist.

⁷ The selection of the judges was made from a list of jurists submitted by the Permanent Court of Arbitration, which was discussed above under "Pacific Settlement of Disputes." There has always been an American jurist on this court, which circumstance is explained by the fact that the United States is a member of the Permanent Court of Arbitration. The American jurists who have served on this court were John Bassett Moore, Charles Evans Hughes, Frank B. Kellogg, and Manley O. Hudson.

[states] or to treaties and other obligations pledging them in advance to have recourse to the court.”¹

The establishment and operation of the World Court signified a notable advance in the field of international adjudication. It “represented the most important successful effort thus far made to establish an international judicial tribunal for the adjudication of controversies between states.”² Its record revealed it to be a body of very great value. “The ability of states to agree on the organization and competence of an actual international court marked a real advance over pre-war experiments.”³

Although the World Court undoubtedly possessed significant potentialities, its importance can easily be exaggerated. In the first place, the most important and potentially serious disputes among the nations are political and therefore not susceptible of judicial determination. Secondly, the World Court had jurisdiction only over such cases as the member-states were willing to submit to it. In the third place, this tribunal lacked the power to enforce its decisions. The humblest judge in the United States actually possessed a greater coercive power than did the World Court. Notwithstanding this relative impotence, the United States was unwilling to become a member of this tribunal.

The refusal of the United States to join the World Court was indeed ironical, for even before the Civil War our government was in the forefront of efforts to provide the world community with more adequate judicial machinery. It was Elihu Root, a distinguished American statesman, who made the World Court possible by submitting an ingenious plan for the selection of judges. Repeated efforts have been made during the last two decades to induce the United States to join the World Court, of which a state may be a member without becoming a member of the League of Nations. All our Presidents since its birth have favored our membership, but they have been unable to overcome American isolationist psychology and tradition.⁴ One of the basic needs of the

¹ Steiner, *op. cit.*, p. 267.

² Schuman, *op. cit.*, 3rd ed., p. 193.

³ Brown, Hodges, and Roucek, *op. cit.*, p. 467.

⁴ In 1926 the Senate advised adherence to the World Court with five reservations. Two of these are significant. In one it was stipulated that the United States was to have the right to withdraw at any time, and no amendment to the court's constitution was to be made without the consent of the United States. In the other reservation it

world community is a court with comprehensive jurisdiction over the national states whose decisions could be enforced.

The Significance of the League of Nations. The birth of the League of Nations marked an extremely significant milestone in international organization. Never before had the nations possessed such comprehensive international machinery. Indeed, "the only approximation to institutionalized cooperation among the Powers in dealing with questions of high politics during the whole period between the dissolution of the Holy Alliance and the outbreak of the Great War in 1914" was the Concert of Europe.¹ It was composed only of Great Powers, had no international organ, and held no regular meetings. Conferences were called only as serious problems arose. "It was a system of rights without duties, responsibilities without organization."² The fact that the League of Nations is now practically dead is no reason why its organization and operation should be ignored by the student of international relations. Our yesterdays are always with us, in international life as well as in national and local experience. Future efforts to afford our world adequate organization will involve taking cognizance of the history of the League of Nations.

Never before the advent of the League of Nations had the nations addressed themselves so concertedly and seriously to the elimination of the curse of war.³

The Success and the Failure of the League. The launching of the League of Nations stirred much discussion and controversy. American opinion ranged all the way from pronounced cynicism to decided utopianism. Many diverse ideas were developed as to the merits and defects of the League's organizations and operations.

was declared that this tribunal was never to give an advisory opinion without the consent of the United States, nor even entertain any request for such an opinion if the United States had or claimed an interest. It is clear that had other nations manifested such a spirit as these amendments indicate no international tribunal such as was set up in the 1920's would have been possible. When the five senatorial reservations were almost entirely acceded to by the national members of the World Court, the question of our joining this tribunal was again submitted to the Senate in 1935 by the President of the United States. There were fifty-two affirmative votes and thirty-six negative votes. Since a two-thirds vote was required the United States missed becoming a member of the World Court by seven votes.

¹ Schuman, *op. cit.*, 3rd ed., p. 205.

² Maxwell, *op. cit.*, p. 43.

³ For the provisions of the Covenant which deal with the problem of war and the pacific settlement of disputes, see Articles VIII through XX.

An extensive literature developed out of the intellectual and emotional ferment occasioned by the birth of the League of Nations.¹

If the League of Nations is appraised in the light of its fundamental objectives, which were "to promote international cooperation and achieve international peace and security" (Preamble to the Covenant), it is but a half-truth to say that the League was a failure. In the promotion of international cooperation it was a distinct success, for the League accomplished much in furthering this objective — vastly more than Americans commonly realize. It greatly facilitated the holding of international conferences; created a number of committees and commissions which coordinated international efforts in many fields — for example, in health, communication, transportation, finance, intellectual cooperation, welfare of children and women; supplied extensive and valuable informational services; and supervised many important international activities. In the field of international administration the League was outstandingly successful.

The achievements of the League in promoting international cooperation stand in marked contrast with its failures in the establishment and maintenance of peace and security. However, even in these matters the League in the first decade of its operation was by no means a total failure, for "during that period it dealt with almost thirty important disputes which might in several cases have resulted in War."² It is important to note that experts are agreed that the League did not fail because of structural deficiencies.³ The machinery of the League was not inadequate, nor were its methods unsound. It failed in this second basic objective because of its inability to effect collective security, to secure disarmament, to reconcile conflicting interests, and to compel its members to

¹ The host of articles which appeared in our magazines and professional journals in the 1920's afford the student of international relations interesting comment upon our international thought in those years. Dozens of books have appeared during the last two decades which discussed the League more or less in detail. Three examples are: C. Howard Ellis, *The Origin, Structure, and Working of the League of Nations*, Houghton Mifflin Company, Boston, 1928; Felix Morley, *The Society of Nations*, The Brookings Institution, Washington, D. C., 1932; and A. Zimmern, *The League of Nations and the Rule of Law, 1918-1935*, Macmillan & Company, Ltd., London, 1936.

² Brown, Hodges, and Roucek, *op. cit.*, p. 438. After 1931 there was a steady diminution of the League's prestige. It finally "became a sepulcher of what later (and sadder and wiser) generations may well regard as the last best hope of Western mankind." Schuman, *op. cit.*, 3rd ed., p. 230.

³ For example, see Schuman, *op. cit.*, 3rd ed., p. 231, and Wriston, *op. cit.*, p. 187.

live up to their obligations under the Covenant. "The League perished because its members failed to use it to compel the orderly settlement of disputes and prevent aggression."¹ Member-states gave or withheld support of its policies and actions in every case only in accordance with their respective national interests. In its efforts to control the international political interests of its members the League always faced colossal difficulty. Under the well-established conception of national sovereignty and nationalism, it failed to obtain the power to coerce the member states.

The League of Nations served the nations well when they were disposed to act in a genuinely cooperative spirit. It failed when national interests took precedence over international problems.

The League of Nations, despite a lack of wisdom and a lack of strength, has given the world a glimpse of the possibility of order and security exceeding anything the world has ever known. It provided "machinery for a peaceful world based on social justice," which needed "only the will of mankind to come into actual existence."²

The United States and the League of Nations. In view of the failure of the League to function as its sponsors and well-wishers had hoped, it is interesting to inquire why the United States did not join the League of Nations, which it had done so much to bring into existence. Among the explanations for our refusal to become a member of the League, four stand out prominently. First, our paramount concern was the maintenance of national independence of action. Membership would necessarily curtail the scope of our freedom. Second, since we had no strong potential enemy near us we could not feel keenly any urge to deal with the possibility of future wars. Third, opponents of the League in the Senate could and did stir deeply the traditional American fear of becoming entangled in European affairs. All arguments for American membership in the League were overwhelmed by moving emotional appeals to adhere to our time-honored policy of isolation. A fourth explanation is our treaty-making process. A two-thirds vote is required in the Senate for the ratification of a treaty. (The Covenant of the League of Nations, its constitution, was made an integral part of the peace treaties.) Had only a majority vote been required the United States would have become a member of the League of

¹ Schuman, *op. cit.*, 3rd ed., p. 231.

² Brown, Hodges, and Roucek, *op. cit.*, p. 449.

Nations.¹ While it is a matter of controversy as to whether or not the United States acted wisely in refusing League membership, there can be no doubt that our action dealt the League a severe blow and made the system it contemplated much more difficult if not impossible to operate. Although we set out in 1921 to ignore utterly the whole League system, we found it increasingly difficult to adhere to this policy. In 1923 the United States sent unofficial observers to the League, and in 1925 we sent an official delegation to Geneva. In 1928, our Secretary of State, Frank B. Kellogg, declared:

We have cooperated [with the League] fully, freely, and helpfully. . . . By the end of 1930 the United States had signed a dozen international conventions drafted by League conferences. . . . Millions of dollars have been donated from private American sources to aid various League activities.²

Regionalism. Increasingly, as the failure of the League became ever more apparent, an international movement referred to as "regionalism" has developed. It seeks to organize the world by regions. Proposed regions for organization are, for example, the Baltic, Balkan, Danubian, Far East, Near East, Western Europe; and the Western Hemisphere.³ Some experts in the field of international organization advocate this development in the belief that "regionalism may salvage some of the sentiment and spirit of collective security and actually promote limited security when general security is impossible."⁴ Their conviction is that while the interests of all nations are too divergent for an effective world organization now, a number of countries in a given geographical area possess enough common interests to make possible the successful operation of an international organization of regional scope. Although the respective arguments for and against regionalism cannot here be examined, an appraisal of this plan will reveal some probable merits and several inadequacies.⁵

Pan-Americanism. The United States for over half a century has been interested in developing Pan-Americanism, which is an

¹ The vote in the Senate was forty-nine to thirty-five, only seven votes short of the necessary two-thirds.

² Schuman, *op. cit.*, 2nd ed., p. 702.

³ For a discussion of regional interests, see Brown, Hodges, and Roucek, *op. cit.*, pp. 277-372.

⁴ Steiner, *op. cit.*, p. 535.

⁵ The case for and against regionalism is briefly but forcefully presented by Steiner, *op. cit.*, pp. 535-536.

example of regionalism. While the Latin-American republics began to develop an international organization among themselves as early as 1826, the United States did not become definitely interested in a Pan-American project until the late 1880's, and then her motive was primarily economic rather than political. In 1889 all the Latin-American republics, save one, in response to an invitation of our Secretary of State James G. Blaine, sent representatives to Washington. As a result of this conference a secretariat, now called the "Pan-American Union," was established in 1890. It has functioned continuously since that time. This bureau, with headquarters in Washington, is under the control of a Governing Board made up of representatives of the twenty-one member states. The Secretary of State of the United States is always the chairman of this board.

The general purpose of the Pan-American Union (the general organization has the same label as its secretariat) as indicated on the frontispiece of all its bulletins is: "to promote peace, commerce, and friendship among the Republics of the American Continent by fostering economic, juridical, social, and cultural relations." Since 1889 the members of the Union have met in conference from time to time. The eighth international conference met in 1938. Besides these general conferences special meetings have been occasionally called.

Before 1933 two great stumbling blocks to the furtherance of political cooperation under the Pan-American program were (1) the insistence of the United States in excluding political discussions, especially of the Monroe Doctrine, in the conferences, and (2) the Latin-American fear of "Yankee imperialism." Now the United States is willing that controversial issues previously barred from discussion should be brought under consideration in the conferences. Our Good Neighbor policy has assured the Latin-American nations that the United States will not infringe upon their sovereignty by any intervention, a practice to which it resorted on many occasions previously. Although the Pan-American Union has always confronted difficulties, and some still remain, yet several of the more perplexing problems are being solved.

Peace and War. War is the greatest paradox in our world today: despite an earnest and practically universal desire for peace, it

continues and increasingly menaces the welfare of mankind. That war is the most deplorable social phenomenon in the life of man is the wide consensus in our time. War in the twentieth century is far more serious than ever before; it calls for the total mobilization of all the resources of the belligerents, man and materials; science gives it ever greater weapons for the destruction of life and property; its costs in men and money mount staggeringly; and its aftermath increasingly produces disintegrating, disruptive, and demoralizing political, economic, and social conditions. Certainly peoples do not engage in war "because the substantial attainment of international peace is beyond the genius of man."¹

Unfortunately there has been rather little appreciation of the fact that the fundamental cause of war is a lack of international organization. In each local community formerly, just as in the international arena today, there was little order or peace until it became sufficiently organized to maintain orderly processes and eliminate resorts to violence. There can be no lasting peace in our world until each nation can feel secure and be able to bring about adjustments to changed and changing conditions by pacific means. These are the two indispensable and fundamental prerequisites for peace among the nations. And these two essentials are not to be had under the present international organization of our world in which each nation must provide its own security and enforce its own rights, both interpreted by itself in its own interest. The world community can only be orderly and peaceful when it becomes adequately organized.

International Government. "The world is beginning to realize more and more fully that it must choose between building itself into an orderly community and resigning itself to being a tragic battleground of horror, waste, and devastation."² Voluntary cooperation will no more suffice in the international field than in the local community or in the nation. Government authority operating through permanent agencies is essential in every jurisdiction. A power is always necessary which can maintain order,

¹ Sharp and Kirk, *op. cit.*, p. 229. "Broadly speaking, wars recur for two reasons: (1) because they satisfy real or fancied human impulses and needs, and (2) because no adequate substitute for war has as yet been devised and accepted by a sufficient portion of the world community to make it unprofitable for the remaining portion to resort to methods of violence." *Ibid.*

² Brown, Hodges, and Roucek, *op. cit.*, p. 448.

guarantee rights, interpret the law, protect common interests, and safeguard the general welfare. This is the universal experience of men in every local and national community.

[Government] must extend ultimately to those relationships which exist between nation and nation, between groups of nations and other groups of nations, between classes and classes whose influence expand across international frontiers, and even to relationships between races and races.¹

[In international] just as in internal affairs, the choice of mankind is, on the one hand, between regulating his social affairs by force or, on the other hand, by means of a set of principles which in domestic affairs we call constitutional, and their application by a common institution supported adequately by world public opinion.²

In the community of nations, as in other communities, the alternative to order is anarchy. The price of order is easily stated: common loyalties to common purposes; willingness to assume responsibilities and run risks to restrain law-breakers and promote security; ability to set up workable judicial procedures for the settlement of legal disputes through the application of established law, to establish competent legislative processes to settle political disputes by changing established law, and to devise effective agencies to administer and enforce the will of the community.³

International Federation. In the 1930's, as the League of Nations declined, international strains and stresses augmented, and aggressive forces made war ever more imminent, attention was turned increasingly to the desirability of the substitution in international relations of law and order for conflict and anarchy. Since this could come only through a development of international government, scholars and statesmen considered the form this governmental organization should take. It was clear that a single unified world state was utterly impossible. There has come to be a considerable consensus that the federative principle affords the most feasible approach to the problem.⁴ Under this general plan, upon the details of which there are diverse opinions, the international federation would control those affairs which are clearly international, and the component national states would administer

¹ William S. Culbertson, *Reciprocity*, McGraw-Hill Book Company, Inc., New York, 1937, p. 204.

² *Ibid.*

³ Schuman, *op. cit.*, 3rd ed., p. 247.

⁴ See Lionel Curtis, *Civitas Dei: The Commonwealth of God*, Macmillan & Company, Ltd., London, 1938; Oscar Newfang, *World Federation*, Barnes and Noble, Inc., New York, 1939; and Clarence K. Streit, *Union Now*, Harper & Brothers, New York, 1940. Salvador de Madariaga, *The World's Design*, George Allen & Unwin, Ltd., London, 1938.

respectively their domestic concerns. That the world community needs such an organization there can be no doubt, "for only in this fashion can national sovereignty be abolished and the world policed and administered under a regime of law."¹

But how soon a beginning can be made on this colossal project, if ever, and how far it can be carried if or when begun, is a matter of speculation. That the elimination of the barriers to the creation of an effective world federation will require a long time, probably many generations, and that the problems involved in instituting and maintaining such an organization are stupendous, can scarcely be doubted. World opinion favorable to international federation, the great goal of international organization, will develop as the peoples of the world come to appreciate how extensive and vital is their interdependence, and as the desirability of effecting an international political order which will be in accord with the other fundamental aspects of world community life is realized.

Summary. When we observe the whole panorama of international organization these facts stand out saliently: (1) We live in a world of nation-states which dominate the whole life of mankind. (2) The international political organization is not in accord with the other fundamental aspects of modern international life. (3) International politics presents a scene of universal, constant, and intense struggle for power. (4) As yet, owing to the great power of nationalism and the dominance of the concept of national sovereignty, peoples and their respective national governments feel their divergent and conflicting interests keenly and their international responsibilities weakly. (5) Old habits of thought and archaic emotional associations constantly hamper national attempts to organize the world adequately. (6) The central problem of all international organization is to reconcile state sovereignty with the necessity for international regulation. (7) There is far more international organization of a bilateral and preinstitutional character than most Americans realize. (8) The nations have developed increasingly the ability to act multilaterally in their political affairs. (9) The national states are capable of acting and have acted concertedly in an effective manner in matters which do not involve their power interests. (10) The League of Nations gave our world a glimpse of the possibility of an orderly international

¹ Schuman, *op. cit.*, 3rd ed., p. 704.

community provided with permanent legislative, administrative, and judicial organs. (11) International anarchy and war will continue until international government is developed. (12) The federation of the nation-states is now being seriously discussed.

TERMS TO BE UNDERSTOOD

adjudication	international federation
ambassador	international law
arbitration	international private organization
balance of power	minister
conciliation	pacific settlement of disputes
consular service	public international organization
the Covenant	recognition
diplomacy	regionalism
hegemony	sanctions
international administration	sovereignty
international conference	treaties (bilateral, multilateral)
	world community

QUESTIONS FOR DISCUSSION

1. What is the significance of the multiplication of private international organizations?
2. Why does each national state maintain a diplomatic and a consular service?
3. What means have the nations employed to effect the pacific settlement of their disputes?
4. Why is there great need for further international organization?
5. In what important respect was the League of Nations successful? Why? In what way was it a failure? Why?
6. What is the relation of international organization to the problem of war?
7. To what extent and in what ways has the United States promoted or retarded international organization?
8. If you were one of the statesmen whose responsibility it will be at the close of the present war to draw up a peace treaty and plan a better world order, for what specific objectives and programs would you especially labor?

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BIBLIOGRAPHICAL NOTE: A wealth of interesting and informative material is to be had in our periodical literature, and in the journals of the several professional associations in the field of social science. Many valuable booklets and pamphlets are easily obtainable at very reasonable prices. Four important sources of such materials are:

1. Carnegie Endowment for International Peace, 405 West 117th St., New York. For example, see "International Conciliation" booklets.
2. Foreign Policy Association, Inc., 22 East 38th St., New York. See especially its "Headline Books" (booklets). For example, in the fall of 1941, "The Struggle for World Order" appeared.
3. U. S. Government Printing Office, Washington, D. C.
4. Public Affairs Committee, Inc., 30 Rockefeller Plaza, New York. See its Public Affairs pamphlets.

AMERICAN FOREIGN POLICY

The greatest problem which has faced the United States since the great depression has been that of choosing and executing a wise foreign policy. Not only the future of the United States but that of the whole world depends upon the way in which the world crisis, brought to a climax in the Second World War, is resolved. How that crisis is resolved, in turn, depends much upon how the United States charts its course through the world's troubled waters. It is altogether fitting, therefore, that the final chapter of this text should deal with the problems of American foreign policy. In this chapter consideration will be given, (1) to the agencies which formulate and execute American foreign policy; (2) to the bases of that policy; (3) to the important directions in which American foreign policy might be guided; and, (4) to the actual pattern of American foreign policy in recent years.

THE AGENCIES OF AMERICAN FOREIGN POLICY

The Executive. Among government officials, the President without question wields the greatest influence over American foreign policy. Presidents who do not care to direct the foreign relations may, of course, allow such direction to be exercised by the Secretary of State or by some other person, whether in high official position or not; but Presidents who wish, and have the ability, to dominate our foreign policy may do so. Through his choice of the key men in the foreign service and in the Department of State the President can assure himself of subordinates who will work harmoniously with him. All official contacts with foreign States must be made through his branch of the government. Obviously this gives the President great power in the positive direction of American foreign policy. He, rather than Congress or any other group, has at his command the highly confidential reports of our representatives abroad. The President and certain

of his subordinates may be the only ones, therefore, to know exactly what is going on behind the scenes of international relations. By the orders and communications which are sent out by the President or his subordinates, the direction of American policy may well be predetermined before Congress or the electorate can exercise any effective control.

Among the President's subordinates, the secretaries of State, of War, and of the Navy are the most immediately concerned in the direction of foreign affairs. The secretaries of War and of the Navy, together with their technical advisors, function primarily when questions of military and naval strategy are involved; and thus their roles have become increasingly important with the advent of armed conflict. The State Department is responsible for the conduct of official relations with foreign states. The officials thereof not only have the duty of carrying out the determined policies of the government but they also help to determine those policies by giving expert advice upon problems or issues which arise within their spheres of special competence. The State Department officials who represent the United States in foreign countries are organized in the Foreign Service, which since the Rogers Act of 1924 has contained both the diplomatic and the consular branches. In general, the diplomats may be said to specialize in the conduct of political relations; the consular agents, in the conduct of commercial relations and certain more or less routine matters. At the beginning of 1941 the United States maintained fifty-three active diplomatic posts and several hundred consular agencies abroad. Over 1300 members of the American Foreign Service were serving as the eyes and ears — and, when appropriate, as the spokesmen — of the United States in foreign lands.

The Legislature. The control of American foreign affairs, however, is by no means vested exclusively in the executive branch of the government. Congress also possesses great powers of control, but they are more negative and restrictive and less positive than those of the executive. The House of Representatives may be said generally to play a minor role. Theoretically the House can exercise some control through its power over the purse, since appropriations are often needed to carry out decisions as to foreign policy. Also, the House possesses the power of impeachment, but of course this power is rarely exercised even with respect to domestic

matters. The House, finally, may be used as a sounding board by members who wish to express themselves on foreign policies.

The Senate has all the powers of the House (substituting trial for impeachment) and important other ones besides. The Senate must consent to the appointment of the President's nominees. This, in practice, does not mean much, because the appointment of the Secretary of State and the ambassadors is rarely, if ever, questioned by the Senate. More important is the ratification of treaties, which requires a two-thirds vote. How great this power may be in a negative sense is exemplified by the refusal of the Senate to ratify the Treaty of Versailles or to agree to join the League of Nations. Even membership in the World Court, which had been recommended by every President and Secretary of State since the Court was organized in 1920, fell victim to the Senate's power. The two-thirds requirement has enabled a small bloc of isolationists to defeat measures designed to improve international cooperation.

Congress as a whole plays an important role in guiding our foreign policy whenever pertinent general legislation is involved. Thus, defense measures and neutrality legislation, for example, must run the gauntlet of both houses of Congress. Congress also has the important power to declare war.

Public Opinion. The final control over foreign policy rests with the public. Neither the President nor Congress can ignore the public's will. Polls of public opinion are increasing the accuracy with which this will may be reflected and recorded. But public opinion itself is a product of the interplay of social forces. Thus, the President's control over foreign relations is itself enhanced by the great influence which he can exercise over public opinion through public addresses, day-to-day press releases, and so forth. Since there is no other office in the country which has the prestige of the presidency, the chief executive has a unique advantage. On the other hand, public opinion is formed by many agencies, and the President's freedom of action may be greatly impaired by adverse public opinion. Even though he and his expert advisors may see clearly the course of action which the country, in their opinion, should follow, the President may have to delay, or even abandon, the adoption of such a course if public opinion does not respond in time. This is particularly true if members of Congress, even for partisan reasons, oppose the President's foreign policy.

As we have seen in the chapter on Public Opinion and Propaganda, exactly what the public's opinion may be at any particular time on a given issue usually depends a good deal upon what ideas can be put across to the public through the important channels of public opinion: the radio, newspaper, magazines, movies, and so forth. Through these agencies all sorts of individuals and groups — political, economic, social, religious, and racial — help to formulate our foreign policy. In more or less quiet periods, the general public is usually a passive rather than an active influence in the shaping of our policy. In such periods the well-organized special interest groups generally try to influence the "powers that be" without disturbing the general public. With the approach of critical times in our foreign relations more and more of the populace become aroused, and the "public" grows larger and becomes more general. Then, such organizations as the America First Committee and the Fight for Freedom Committee try to mobilize public opinion behind one or another foreign policy. It can be seen, therefore, that at different times different forces play a part in shaping foreign policy. Sometimes these forces operate behind the scenes and are brought to bear only upon special aspects of American foreign policy; at other times, they reach the level of general public consciousness and are concerned with questions of general policy. In any case, the persons and groups that shape American foreign policy are as multitudinous as they are complex, and they defy easy cataloguing or analysis.

BASES AND GENERAL OBJECTIVES OF AMERICAN FOREIGN POLICY

Because so many individual and group interests are involved in the formulation and execution of American foreign policy, it is little wonder that at times it is difficult to determine exactly what are the bases and objectives of that policy. Nor is it any wonder that from time to time or even from place to place American policies may appear to be inconsistent and contradictory. About all that can be said with safety is that the foreign policy of the United States, like that of other states, has, or should have, as its general objective the preservation and enhancement of the country's best interests, which are generally rationalized in terms of security, peace, prosperity, and prestige. How these interests are inter-

preted and how their preservation and enhancement are translated into a program of action at any given time undoubtedly depends upon a multiplicity of complex factors, some of which are relatively incidental and ephemeral and others of which are relatively basic and permanent. Among the former, for example, are such matters as the personal views, ambitions, qualities, and even idiosyncrasies of the effective leaders of the government; the general state of domestic social, economic, and political affairs; the relations between the executive and the legislative branches of the government; the conditions in, and policies of, foreign states; and perhaps many other factors. Among the relatively basic and permanent factors which help to shape our foreign policy are such items as geography, economic resources, foreign trade and investment, the character of the American people, and our history and political ideals. Because these latter factors play a more or less enduring role as conditions of American foreign policy, brief consideration will be given to each of them.

Geography. There are several important geographic factors which have played a basic part in shaping the foreign policy of the United States. The two oceans, the Atlantic and the Pacific, have set us thousands of miles apart from the great powers of Europe and Asia. For this reason there has not been the constant threat of invasion by these powers with which other states not so favorably situated have had to reckon. The two immediate neighbors of the United States, Canada and Mexico, are not powerful enough to constitute a threat to our security and have in fact been on reasonably good terms with the United States, especially in recent years. These geographical factors have meant in the past that as long as the Atlantic and Pacific continued to be free from control by hostile powers, the United States could feel secure. Geography has consequently decreed that a strong navy play an indispensable role in American foreign policy. Through the years, furthermore, the United States has acquired outlying bases to protect the approaches to continental United States. In the Pacific these bases stretch from Alaska to the Philippines and include Guam, Midway, Wake, and the Hawaiian Islands. The respective value of these as naval, air, or military bases varies, but some of them, at least, constitute useful outposts from which to guard the mainland. In the Atlantic, Iceland, Greenland, New-

foundland, and the bases in the south acquired from the British and the Dutch now serve in a similar capacity.

Besides the geographic factors pertaining to the continental United States there are those related to the Panama Canal, which is a vital link in the defense plans of the United States. Protecting the Atlantic approaches to the canal, the United States has bases from the Bermudas to Dutch Guiana, with an important naval base at Guantanamo, Cuba. In the Pacific, on the other hand, there are few islands near the canal which are suitable for bases.

If the United States defense plans call for the protection of the entire Western Hemisphere from hostile threats, it is with respect to the defense of South America that the geographic position of the United States would appear to be the weakest. The easternmost point of Brazil, for example, is much closer to Africa than it is to the United States, and there are at present no outlying American bases which would serve to protect South America from attacks or invasion from the east.

Finally, it should be stressed that the rise of the airplane has greatly altered the significance of American geographic isolation.

Economic Resources. The United States, with the possible exception of the Union of Soviet Socialist Republics, is of all the states of the world the most richly endowed with natural resources. With ample supplies of coal, iron, copper, petroleum, and most of the other resources required by modern industry, the United States has the economic basis for participation in world politics as a leading power. Indeed, possessing from one-third to one-half of the economic weight of the world,¹ the United States can be of decisive importance in world affairs. For example, in connection with sanctions to enforce a system of collective security, the other states of the world could hardly make such a system work without the cooperation of the United States. The affairs of the world are therefore gravely affected by the role of the United States whether that role be active or passive.

Although the United States is richly endowed with natural resources, there are certain important ones which the United States lacks altogether or possesses in inadequate quantities. From Table LXXXI it can be seen that of twenty-seven so-called

¹ Eugene Staley, *World Economy in Transition*, Council on Foreign Relations, New York, 1939, p. 326.

strategic items the United States has surplus supplies of nine items, sufficient supplies of three, and inadequate supplies of four. With respect to the remaining eleven items the United States, while possessing less than self-sufficiency, could get along satisfactorily in time of war through added supplies from increased domestic production, colonial possessions, and/or regions of control. Substitutes, stocks, and secondary recovery are not taken into account.

TABLE LXXXI¹

STRATEGIC ECONOMIC SITUATION OF THE UNITED STATES

<i>Exportable Surplus</i>	<i>Self-Sufficient</i>	<i>Potentially Self-Sufficient</i>	<i>Inadequate Supplies</i>
1. Food 2. Machinery 3. Chemicals 4. Coal 5. Copper 6. Sulphur 7. Cotton 8. Zinc 9. Phosphates	1. Power 2. Iron and steel 3. Petroleum	1. Lead 2. Nitrates 3. Aluminum 4. Manganese 5. Nickel 6. Tungsten 7. Wool 8. Potash 9. Mercury 10. Mica 11. Iron ore	1. Rubber 2. Chromite 3. Antimony 4. Tin

International Trade and Investments. One of the factors which the United States, like other states, must take into consideration in its foreign policy is its foreign trade and investments. Where the trade and investments are great, the interests of the government are likely to be correspondingly great. Table LXXXII shows American foreign trade with the several continents from 1921 through 1939. It will be noted that Europe is normally the best customer of the United States, that North America (this means principally Canada) is the second best, and that South America ranks behind Asia. Table LXXXIII, showing the leading exports and imports of the United States ranked in the order of their importance in 1939, reveals what industries have the greatest stake in American foreign trade.

¹ From Brooks Emeny, *The Strategy of Raw Materials*, The Macmillan Company, New York, 1934, chart at p. 170.

If the dollar still plays a role in diplomacy, it is interesting to note some facts concerning United States investments abroad. Such investments have increased greatly since the First World War. In 1914 only about \$2,500,000,000 of American capital had been invested in the Caribbean area, Canada, and Europe. By 1931 Americans had invested abroad a total of \$18,000,000,000, exclusive of intergovernmental debts. \$5,500,000,000 of the total was in Europe; \$4,500,000,000 in Canada; \$3,000,000,000 in South America; \$3,000,000,000 in the Caribbean; and the remaining \$2,000,000,000 in Asia and elsewhere. The great depression of the early 'thirties deflated these investments enormously; by the end

TABLE LXXXII¹
UNITED STATES FOREIGN TRADE, 1921-1939, BY CONTINENTS
(In Millions of Dollars)

<i>Exports</i>							
<i>Area</i>	<i>1921- 1925 Average</i>	<i>1926- 1930 Average</i>	<i>1931- 1935 Average</i>	<i>1936</i>	<i>1937</i>	<i>1938</i>	<i>1939</i>
Total	\$4310.2	\$4687.8	\$1988.9	\$2419.0	\$3298.9	\$3057.2	\$3123.3
North America	1029.3	1177.0	445.2	598.4	816.1	721.3	777.8
South America	294.1	445.4	140.1	202.6	316.4	298.1	326.5
Europe	2279.5	2206.6	944.2	1028.2	1337.9	1311.4	1265.0
Asia*	637.7	572.7	348.5	397.6	578.2	514.9	560.0
Oceania	—	176.8	48.6	78.9	98.7	93.4	79.1
Africa	69.6	109.4	62.2	113.2	151.6	118.1	114.8
<i>Imports</i>							
Total	\$3450.1	\$4033.5	\$1707.6	\$2424.0	\$3009.9	\$1949.6	\$2276.1
North America	910.9	940.2	413.3	619.7	679.6	478.9	566.0
South America	421.3	545.8	243.2	290.5	411.7	263.0	300.7
Europe	1049.5	1210.5	512.7	719.3	820.8	568.1	611.3
Asia*	996.9	1192.6	490.4	707.4	944.9	569.9	694.6
Oceania	—	53.1	16.1	36.1	62.6	17.1	27.9
Africa	71.5	91.2	32.0	51.0	90.2	52.7	75.5

* Turkey in Europe is included with Asia beginning 1928 and U.S.S.R. in Asia, with Europe beginning 1935. The figures for Asia for 1921-1925 include those for Oceania also.

¹ Source: U. S. Department of Commerce, *Statistical Abstract of the United States, 1940*, U. S. Government Printing Office, Washington, D. C., 1941, Table No. 564, p. 502.

TABLE LXXXIII ¹

LEADING EXPORTS AND IMPORTS OF THE UNITED STATES FOR SELECTED YEARS
(In Thousands of Dollars)

<i>Exports</i>			
<i>Merchandise</i>	<i>1939</i>	<i>1931-1935 Average</i>	<i>1926-1930 Average</i>
Machinery	\$502,081	\$212,499	\$488,042
Petroleum	383,121	231,352	524,364
Automobiles	253,722	146,503	406,164
Raw cotton	242,965	366,539	765,674
Iron and steel	235,674	662,931	170,666
Copper	97,185	39,920	149,999
Fruits and nuts	83,216	84,798	122,234
Raw tobacco	77,422	103,742	144,549
Manufactured cotton	68,318	45,423	124,079
Coal and coke	66,674	51,678	121,800
<i>Imports</i>			
Crude rubber	\$178,054	\$ 74,573	\$294,428
Coffee	139,546	141,173	281,707
Paper	126,783	95,523	151,219
Sugar	124,649	113,110	207,318
Raw silk	120,852	115,054	368,232
Wood pulp	75,892	59,544	86,044
Tin	71,009	43,837	89,058
Fruits and nuts	58,216	48,407	84,868
Furs	55,471	43,125	114,785
Vegetable oils and fats	50,977	45,012	81,940

of 1934 they had been reduced through retirement, repurchase, or refunding to \$5,270,000,000 of which \$1,940,000,000 was in default in whole or in part. It has been estimated that at the close of 1939 private United States investments abroad totaled \$11,759,000,000. \$3,781,000,000 was invested in Canada; \$4,134,000,000 in Latin America; and \$2,278,000,000 in Europe. That would appear to leave \$1,566,000,000 invested in Asia and elsewhere.²

¹ Source: U. S. Department of Commerce, *Statistical Abstract of the United States, 1940*, U. S. Government Printing Office, Washington, D. C., 1941, Table No. 558, pp. 492-493.

² F. L. Schuman, *International Politics*, 3rd ed., McGraw-Hill Book Company, Inc., New York, 1941, pp. 355-356.

Population Characteristics. American foreign policy is undoubtedly influenced to a certain if unknown extent by the national origins of the American people. Although American culture is predominately Anglo-Saxon, in the American people there are represented the races and nationalities of all the world.¹ Just what influence national origin exerts in the shaping of American foreign policy perhaps cannot be easily measured, but the fact that there are many persons in the United States who can trace their origin to lands in Europe which have been violated by Hitler's legions helps to explain the American attitude toward the Nazis.

Historical and Ideological Factors. Since history is often interpreted according to the prejudices and preferences of the present, it is difficult if not impossible to explain modern policy in terms of the influence of history. Certainly, however, the fact that France aided in the birth of the United States has colored our attitude to that state ever since. "LaFayette, we are here" truly bespoke the feelings of America even after a century and half. Furthermore, the fact that the United States came into existence as an independent state and as a champion of freedom following a struggle against tyrannical rule undoubtedly has influenced our policy toward reactionary regimes, whether under modern Mussolinis and Hitlers or the Metternichs and Talleyrands of earlier days. On the other hand, wars with Britain in 1776 and 1812 have not prevented the United States and Great Britain from adopting parallel courses of action in recent decades. History is not, therefore, self-perpetuating; nor is it an infallible guide to future policy.

THE CHOICE OF A FOREIGN POLICY

While the factors which have been discussed above undoubtedly *influence*, they do not *determine*, American foreign policy; that is a matter for the American people acting through and with their government to decide. All loyal Americans would probably agree that the general objective of the foreign policy of the United States should be to promote the country's best interests, but this general objective must be translated into more specific patterns of action. It is over these that controversy arises.

¹ See President's Research Committee on Social Trends, *Recent Social Trends*, McGraw-Hill Book Company, Inc., New York, 1933, Vol. I, p. 20, Fig. 11.

Although the outcome of the Second World War might conceivably restrict the choice of a foreign policy for the United States, it is more than likely that at the close of the war even more than at present there will be at least three major courses which the United States might follow. Stated in general terms, these courses are as follows: (1) the United States might go in the direction of world collective security; (2) it might go in the direction of regional (Western Hemisphere) insulation; or (3) it might follow the traditional policy of combining certain aspects of the first two as occasion seems to demand. Let us examine each of these in turn.

World Collective Security. By collective security in international relations is meant collective action by the various nation-states of the world to promote international justice and to maintain international law and order. Ever since 1648, the date of the Treaty of Westphalia, individual nation-states like the present-day Germany or the United States have generally been considered legally to have no earthly superior. While an individual state might bind itself by treaties and might subject itself to the rules of international law, it might also, especially if large and powerful, ignore its obligations when it seemed convenient. Thus, within the past ten years Japan, Italy, and Germany, as well as other states, have broken treaties and violated international law to gain certain advantages at the expense of other countries. There has been no effective international force superior to these nations to hold them accountable. The injured countries have had to rely upon their own means, not always with very great success. The result has been war with all its attendant evils.

Those who favor a policy of collective security for the United States argue that we should join with the other nations to put an end to international lawlessness, just as individuals joined together to put an end to domestic lawlessness. Many arguments have been advanced in behalf of such a policy. In the first place the United States should realize by this time that it cannot escape the results of the recurring wars which characterize the international anarchy of a world without collective security. Up to the present the United States has actually entered every general European war occurring since American independence was established.

It should not be difficult to understand why the United States cannot escape the effects of present or future wars. Modern tech-

nological developments are making the world smaller and more interdependent. Industry in the present age of alloys depends upon resources which must be gathered from the four corners of the earth.¹ As a result the basis of modern economy is not national or even continental but world wide. Improvements in transportation in the past century have caused the world to shrink at least twentyfold. Unless the world is to fall into a period of decline, there is every reason to believe that the interdependence of the peoples and states of the world will increase rather than decrease in the future. In the light of this trend, it would appear wise for the United States to support a policy of collective security in order that world politics may keep pace with technology.

An examination of the economic position of the United States indicates that it, like other nation-states, depends upon an international economy. It has already been pointed out that although the United States, along with Soviet Russia, is the most self-sufficient country in the world, it lacks certain important commodities. Conversely, many of our economic activities are dependent for their prosperity upon foreign markets. This is true not only of agriculture but of certain other industries as well. In addition, in recent years, as we have seen, the United States has had much capital to invest abroad. This has resulted in the creation of large financial interests in foreign countries. It is just at this point that the argument of the traditional isolationists breaks down. They have generally been in favor of economic and commercial intercourse with the rest of the world, but they have appeared to oppose any political commitments abroad. Thus President Washington, in his much-quoted farewell address, said:

The great rule of conduct for us in regard to foreign nations is, in extending our commercial relations, to have with them as little political connection as possible. . . .

Note that not even Washington thought in terms of political isolation. What he was opposing was permanent political alliance with any given country, in this particular case France, for he said elsewhere in the farewell address:

It is our true policy to steer clear of permanent alliances with any portion of the foreign world. . . . [But] we may safely trust to temporary alliances for extraordinary emergencies.

¹ Eugene Staley, *op. cit.*, pp. 23 *et seq.*

It should be clear that an argument against permanent political alliances is not necessarily an argument against collective security, which involves not alliances but something approaching international government. With the passing of almost a century and a half since the utterance of Washington's words it should also be clear that it is impossible to maintain commercial interests abroad without assuming political responsibilities. Economic and commercial interests will not flourish without political support and protection, and it is such support and protection advanced by independent nation-states that often lead to war. Finally, it should be remembered that conditions were much different in Washington's day from what they are now. Not only was political isolation less difficult then, but it was even a necessity for a young and weak country like the United States of the 1790's.

Regional Insulation. The second major foreign policy which the United States might follow is that of regional, or Western Hemisphere, insulation. The adoption of such a policy would mean continued refusal to join any non-American alliances or leagues which might commit the United States to wage war for interests outside the Western Hemisphere. It would also mean giving up American possessions in the Far East, including the Philippine Islands, which are scheduled to become independent in 1946. In the Atlantic it has been suggested that the mid-channel of the ocean be taken as the boundary of the Western Hemisphere.¹ Trade and other forms of peaceful intercourse with peoples outside the limits of this region would be carried on with the clear understanding that the United States would not take steps likely to lead to war to maintain them. Likewise, trade and other forms of peaceful intercourse with peoples within the Western Hemisphere could be enjoyed by non-Western countries; but any attempt by such countries to extend political control would be considered an unfriendly act.

Several arguments are advanced in favor of a policy of regional insulation. First, it is maintained that the major sphere of our interests is in the Western Hemisphere. While the countries of Europe and Asia have their traditional hatreds and rivalries which have kept the Old World in ceaseless turmoil for centuries, the

¹ Vilhjalmur Stefansson, "What Is the Western Hemisphere?" *Foreign Affairs*, 19: 2, pp. 343-346, Jan., 1941.

countries of the New World, although they have had their differences in the past, have no deeply ingrained hatreds. If the United States could serve as a peacemaker in Europe and Asia, it might be different; but all that we could do is to cause the New World to continue to become involved in the quarrels of the Old.

Second, the United States is almost self-sufficient in natural resources. It is true that certain vital materials must be imported, but with long-range planning the United States could probably avoid serious shortages of strategic military supplies. The resources of the Western Hemisphere could be more fully developed, and adequate reserves of strategic materials from outside the Western Hemisphere could be built up through systematic stock-piling. The so-called chemical revolution, with its numerous substitute or *ersatz* materials, is producing a progressive reduction in the number of strategic materials which the United States must import for military purposes.¹

In the third place, a distinction should be made between a nation's commercial and financial interests abroad. Washington favored the extension of the former but said nothing about the latter. Trade can generally be shifted more easily than investments to meet the disturbing changes of war. Furthermore, trade is a reciprocal enterprise. For example, no matter who controls the Dutch East Indies, they will trade with the United States as long as such trade remains profitable. Whereas trade and commerce increase the prosperity of the United States as well as of the foreign countries with whom we trade, the investment of capital abroad may only increase the potential competitive power of foreign industry.

A policy of regional insulation would be based upon a sound defense policy. Although the airplane has revolutionized modern warfare, there is no reason to believe that American production of airplanes or any other weapons of war could not match that of other powers. In addition, the United States would still have the distinct advantage of the protection of the two oceans. It is highly doubtful that other countries would want to attack the United States at terrific cost to themselves, especially when they would have all the resources of Europe, Africa, and Asia to exploit.

¹ The number of "vital materials" listed by the War Department has dropped from forty-two in 1920 to fourteen in 1940.

Continuation of Our Traditional Policy. The third possible foreign policy for the United States is to continue its traditional policy of committing itself to neither the extreme of world collective security nor the extreme of regional insulation. Although the former is perhaps theoretically ideal, the nations of the world are not yet ready to put their full faith in such a venture. The powerful force of nationalism has not yet spent itself. World public opinion needs to undergo a long process of education before the peoples of one nation will be willing to exert themselves to ensure the safety of other peoples whose interests do not coincide with theirs. For the United States or any other country to rely on highly doubtful collective security would be to jeopardize its own well-being. It is premature, therefore, to place our hopes in the basket of collective security.

A policy of regional insulation, on the other hand, is even more objectionable. It would constitute an unnecessary retreat from world affairs. It would prove costly. A policy of regional insulation would have value only if it were a stated policy, but the very statement of such a policy would encourage other countries to ignore our interests outside the Western Hemisphere. Could the United States afford to jeopardize those interests? Although our total foreign trade may seem small when compared with our domestic trade, it is nevertheless extremely important in certain fields, such as agriculture.¹ The sale of agricultural products must be to countries in the Eastern Hemisphere; Canada and South America do not purchase them in great quantities. Likewise, the United States must purchase tin and rubber, for example, from British Malaya and the Dutch East Indies. The cutting off of such supplies would jeopardize not only our economy but even our national safety.

Furthermore, the adoption of either of the extreme policies discussed above would greatly hamper our freedom of action. In international relations much depends upon a country's bargaining power. A state has an advantage when other states do not know how it is going to act. Tied in advance to a definite program, we would forfeit that advantage. In addition, a policy of regional insulation would be one-sided unless the United States had a definite guarantee from Eastern Hemisphere powers that they

¹ See Chap. XXXI on International Economic Relations.

would renounce all interest in the Western Hemisphere. Finally, we would be assuming too much, perhaps, in expecting Latin America to accept the United States as the only major power with primary interests in the Western Hemisphere.

AMERICAN FOREIGN POLICY IN PRACTICE

The Policy of the United States toward Europe. Let us now examine the foreign policy of the United States in actual practice to see to what extent it has favored regional insulation or collective security. First, with respect to our policy toward Europe between the First and Second World Wars there is little doubt that our policy was largely, although by no means completely, isolationist.

Because of party politics, constitutional formalities, psychological reaction from the feverish idealism of the First World War, the inertia of tradition, geographical distance, interest in domestic affairs, and other factors, the United States resumed a policy of noninterference in European politics following the Peace Conference of Versailles. The Senate refused to consider a security alliance which had been signed with France and England in 1919. The Senate also refused to ratify the Treaty of Versailles and with it the Covenant of the League of Nations. For some time the State Department would not even acknowledge communications received from the League. Later the United States did cooperate in the technical, nonpolitical activities of the League, such as those relating to health, opium traffic, and communications and transit. The State Department even went so far as to allow an official representative to participate to a limited extent in the meetings of the League Council when the Manchurian affair was up for consideration in 1931. Furthermore, the United States joined the International Labor Organization in 1934 by joint resolution of Congress.

On the other hand, although Americans have served as judges of the Permanent Court of International Justice (the World Court) ever since its establishment, the United States has not joined that tribunal. The United States participated in the Disarmament Conference of 1932 and various economic conferences. The Economic Conference at London in 1933, however, was practically wrecked by the rather sudden decision of the United States

not to commit itself at that time to far-reaching international economic agreements because of the need for freedom of action in meeting grave domestic problems. Indeed, all through the 'twenties and even in spite of the Hull Reciprocal Trade program of the 'thirties the United States pursued a policy of economic nationalism which did much to intensify the world's economic ills. A high tariff policy as evidenced by the Fordney-McCumber and Hawley-Smoot Tariff Acts of 1922 and 1930, respectively, was hardly a wise policy for the world's leading creditor state.

When the first war clouds began to gather over Europe after Hitler's rise to power, the United States became even more isolationist than ever, evidently hoping to steer clear of any ensuing armed conflicts. Thus, between 1935 and 1937 Congress passed, and the President signed, a series of acts which greatly modified the traditional policy of the United States with respect to neutrality and freedom of the seas. This traditional policy — which had first been set forth by President Washington in 1793, was incorporated in an act of Congress in 1794, elaborated in 1818, and restated during the First World War — stressed certain duties and certain rights of neutrals. The former included the duty not to permit neutral territory to be used by armed forces of the belligerents. Nor was a neutral country to extend governmental loans or any other type of official aid to belligerents. In return for the fulfillment of these duties, the neutral country was to enjoy the right to trade with all belligerents, as well as with neutrals, and its ships were to be respected on the high seas in accordance with the accepted rules of international law. Nationals who supplied belligerents with contraband did so at their own risk, but non-contraband trade had the full protection of the government, as did American citizens traveling on the high seas. It can be seen that this traditional policy of neutrality did not fit in with a consistent policy of regional insulation. The United States refused to cut herself off from the world even in time of war. On the other hand, such a policy was not based upon collective security, because the enforcement of neutral rights and duties was the function not of collective action by the governments of the world but of the United States acting unilaterally as an independent sovereign state.

When the Second World War finally broke out on September 1, 1939, the United States, by virtue of the neutrality legisla-

tion¹ of 1935-1937, had greatly curtailed the rights which it would claim as a neutral and had greatly enlarged the duties which it assumed. It was illegal to export arms, munitions, or implements of war from the United States or its possessions to nations which might be named as belligerents by presidential proclamation. The carriage of arms, munitions, and implements of war in American ships to belligerent ports or to neutral ports for transshipment to belligerents was likewise prohibited. Nor could private persons in the United States extend loans or other credit to belligerent countries.

Immediately following the outbreak of the Second World War President Roosevelt proclaimed the neutrality of the United States, first under international law and then under the existing neutrality legislation. It was realized, however, that the neutrality legislation was far from satisfactory. The main objection was that no distinction was drawn between aggressors and victims of aggression. The arms embargo and other restrictive measures applied to both alike. Since the aggressor was much better prepared for war than the victims of aggression, what appeared to be an impartial application of the neutrality principle was in fact grossly unneutral. Since public opinion was overwhelmingly in favor of the Allies rather than Germany, there was a strong demand, led by the President, to remove the embargo on arms. This was accomplished after thorough debate by the new act of November 4, 1939.

While omitting the embargo provision, this act of November 4, 1939, contained certain new provisions. First, in the preamble of the act it was expressly stated that the act was purely of a domestic nature and did not change the position of the United States under international law. Second, not only could the President find a state of war to exist but so also could Congress by concurrent resolution. Third, American vessels, with certain exceptions, were prohibited from carrying passengers, goods, or materials to any belligerent state. Fourth, the so-called cash-and-carry provision of the 1937 act, which expired on May 1, 1939, was again written into the law. Fifth, the President could define by proclamation combat areas into or through which no American vessel, aircraft, or national could pass except under prescribed rules.

¹ Beginning in February, 1936, the neutrality legislation exempted from its provisions any American republic at war with a non-American state unless the American republic was cooperating in that war with one or more non-American states.

During the course of the Second World War the 1939 neutrality act was applied to most but not all of the belligerent countries. For example, Japan and China were not recognized as belligerents; nor were Finland and Russia and certain other states. The combat zone, into which American vessels were not permitted to go, at one time stretched from northern Scandinavia to Spain and also included the Mediterranean and the Red seas. The latter, however, was removed from the combat zone following the defeat of Italy in east Africa to permit American ships to carry aid to British forces in the Middle East.

On November 14, 1941, Congress passed legislation repealing certain sections of the Neutrality Act of 1939. This practically brought the domestic legislation of the United States back into line with traditional international law. It made possible the arming of American merchant ships and permitted them to traverse combat areas and to enter belligerent ports.

In summarizing the trend of the American neutrality legislation since 1935, it may be stated that up until the act of November 4, 1939, the United States moved in the direction of regional insulation. With the latter act there began a definite swing toward a degree of cooperation with states considered to be the victims of aggression, and long before Pearl Harbor the United States had effectively abandoned a policy of neutrality.

Although from the very beginning of the Second World War American public opinion favored the Allies, it was hoped in the early stages of the war that the United States would not have to go beyond the repeal of the arms embargo provisions of the neutrality legislation to assure an Allied victory. Indeed, pro-Ally sentiment did not begin to assume very active ascendancy over isolationism until Finland was invaded by Russia, and Denmark and Norway by Germany. The latter development in particular caused people to doubt the wisdom of a policy of neutrality and unpreparedness and to fear the threat of fifth-column activities by Nazis and other subversive elements. The swing away from isolationism assumed even greater proportions when the Netherlands, Belgium, and France were invaded. Although these invasions had more or less been expected for months, they profoundly shocked the American public. Not only was Germany's violation of her pledge to these countries repulsive to the moral sense of

Americans, but the ruthlessness of her military campaign deprived the isolationists of some of their talking points. There were several aspects of the situation in particular, however, which were especially alarming to American public opinion. One of these was the recurrence of fifth-column activities in Holland and France. Americans immediately acted to combat such elements in the United States. Reports of subversive activities in Latin America created the uneasy feeling that perhaps the position of the United States in the Western Hemisphere was already being undermined.

The devastating effectiveness of the airplane and of fast-moving mechanized and motorized divisions also was driven home by the rapid advances of the German army through Holland, Belgium, and France. So great was America's concern that the President, one week after the western offensive began, delivered in person a special message to Congress calling for a mammoth defense program. A goal of 50,000 airplanes a year was set up, along with an enlarged and improved Army and Navy. The President himself pointed out the possibility of attack upon the United States because of the short air distances from Europe by way of Iceland, Greenland, and Newfoundland on the north, by Africa and Latin America on the south. He also mentioned the real threat that might come from the establishment of air bases in neighboring countries.

The western offensive, dating from May 10, 1940, also for the first time caused America really to fear a German victory. Up until then it was more or less generally assumed that the Allies' defenses against Germany would prove impregnable and that their blockade would in due time bring Germany to her knees. This easy assumption was rudely swept away by the crushing German victories. What would be the position of the United States in a world dominated by the totalitarian philosophy of force? Would not our trade and investments be jeopardized? Might not the European dictatorships cooperate with Japan to overwhelm us economically and ideologically if not physically? How could the United States defend both oceans with the British fleet destroyed, or, worse, captured? What if the victors should claim as loot of war the Western Hemisphere possessions of France, Great Britain, and Holland? These questions and more began to cry out for answers.

The reply which America gave was not long in coming. To

summarize, it may be said that the United States set up as its definite objective the protection of its own interests by giving aid to those countries which were actively combatting the Axis. The government therefore took certain steps which it deemed necessary to make its aid effective.

One of these steps was to serve as the "arsenal of the democracies." Modern wars can be won only if ample supplies of the most modern equipment are available. This was the lesson of France and of Dunkirk. The United States, with its gigantic resources and tremendous industrial capacity, was potentially in an ideal position to turn out airplanes, tanks, guns, munitions, ships, and other tools of war. American industry was therefore mobilized to fulfill this function. Because it takes time to develop war industries and because Britain and her allies were in immediate and desperate need in the summer of 1940, the United States made available such tools of war as it could spare from existing stocks. Thus, in June, 1940, the government turned in so-called surplus and outmoded military airplanes to private firms, which in turn sold them to the Allies and granted the United States credit thereon toward future purchases. In July large quantities of rifles, light artillery, and munitions were sent to help arm Britain against the threat of immediate Nazi invasion. Of great importance was the destroyer deal in September, 1940, by which the United States traded fifty over-age destroyers to Britain in exchange for ninety-nine-year leases on sites for naval and air bases in certain British possessions in the Americas from Newfoundland to British Guiana.

To place the aid to Britain and to other foes of Axis aggression on a sound basis, the Lend-Lease Act was passed in March, 1941. This act gave the President power to authorize the manufacture or purchase by the United States of any defense article "for the government of any country whose defense the President deems vital to the defense of the United States." The President was also authorized to communicate plans, specifications, and other information concerning defense articles to these governments. The President could make practically whatever arrangement he deemed satisfactory with respect to payment for these goods and services. Also, under the terms of this act, ships might be repaired in American ports; and several British warships were not long in availing them-

selves of these facilities. The Lend-Lease Act originally made available \$1,300,000,000 worth of defense articles for transfer to approved foreign governments. Soon after the passage of the act, Congress appropriated \$7,000,000,000 more for lend-lease purposes; and in October, 1941, a Supplemental Lend-Lease Act appropriating \$5,985,000,000 was passed. Great quantities of airplanes and other weapons of war began to flow in ever increasing amounts to Britain, China, and other foes of the Axis.

The second definite step which the United States took to reach its objective was to guarantee the freedom of the seas. It would do little good to become the arsenal of democracy if the weapons of the arsenal could not be delivered where they were needed. The United States therefore in the spring of 1941 began to patrol the Atlantic to aid in the detection of Nazi submarines and raiders, and the government made it clear that deliveries to Britain would go through.

Such a policy obviously could not be pursued without risk or sacrifice. The merchant ship *Robin Moor*, flying the American flag, was sunk on May 21, 1941; and other American-owned ships were subsequently sent to the bottom. More serious were the attacks upon United States war ships. The destroyer *Greer* escaped unharmed from a torpedo attack on September 4, 1941; but the destroyer *Kearney*, attacked on October 17, 1941, was hit and the casualty list included eleven killed and ten wounded. Then, on October 31, the destroyer *Reuben James* was sunk with the loss of about 100 lives. All these destroyers were serving in the Atlantic on patrol or convoy duty.

The third step in American policy was to take over such strategic outposts as might be necessary or helpful in achieving control of the high seas and in preparing American defense for any eventuality. The acquisition of the leases to the sites for naval and air bases in the destroyer deal was the first step in this direction. Then by an agreement of April 9, 1941, with the Danish Minister in Washington the United States acquired the right to establish bases in Greenland. In July, 1941, came the bold occupation of Iceland by American forces. In November, 1941, United States armed forces occupied Dutch Guiana in South America to protect bauxite (aluminum) mines there.

A fourth phase of American policy was to apply economic

pressure on the Axis powers. Thus, upon Axis occupation of a country, that country's assets in the United States were frozen to prevent the Axis from making use of them. Strict control of exports of strategic materials to Axis countries was exercised. Axis firms were blacklisted. In addition, the United States exerted its influence in Latin America to secure cooperation in this program of economic strangulation of the Axis.

A fifth, and extremely important, step in America's program to achieve the objectives of her foreign policy was to prepare her armed forces for possible future action. For the first time in American history the government under the Act of September 16, 1940, resorted to peacetime conscription. In August, 1941, authority was granted by Congress for extending the original 12 months' training period an additional 18 months to a total of 2½ years. Instead of an army of thousands, the United States began to build an army of millions to stand ready during the emergency. The Navy, traditional first line of defense for the United States, also came in for a program of expansion. Because of the Axis threats on the Atlantic and the Pacific and to replace the possible loss of the British navy, the United States decided to build a two-ocean navy. Between 300 and 400 war ships were scheduled for construction by 1946 or earlier. The achievement of this goal would make the United States by far the strongest naval power in the world. The development of mechanized and motorized units in the Army and the tremendous expansion of the American air forces were other phases of the program of rearmament. Most important of all, perhaps, was the transformation of American industry and economy from a peacetime to a wartime basis under the general guidance of the Office of Production Management. Most of the early output of armaments went to supply the active foes of the Axis in order to prevent an early Axis victory and to gain time for building up the strength of the American armed forces.

The Japanese attack on Pearl Harbor on December 7, 1941, followed by the declaration of a state of war with the empire of Japan, followed by the state of war declarations with the other Axis powers and their satellites, definitely committed the United States to bring the Axis down in defeat. These events put an abrupt end to debate in the United States as to whether or not this country should go to war to destroy the Axis powers.

The Policy of the United States toward the Far East. The Far East for almost 100 years has been an area of peculiar interest to the United States because of American trade, investments, and possessions there. Even more important in recent years has been the fact that certain important strategic raw materials, particularly rubber and tin, come from the Far East. The aggressive imperialism of Japan jeopardized these American interests, and her ties to the Axis appeared to add to the threats against American security.

As though in anticipation of these developments, the policy of the United States toward the Far East had been rather well outlined through the years. An integral part of it was covered by the Open Door policy pronounced by Secretary of State John Hay in 1899. The essence of this policy was that economic opportunities in China must not be monopolized by any foreign power but must be available on an equal basis to the citizens of all countries. In order to reassert the Open Door policy after the First World War, the United States joined with eight other powers in agreeing to respect the independence and territorial integrity of China and to uphold the principle of the Open Door. This was accomplished in the Nine Power Pact signed at the Washington Conference in 1922.

Although the Open Door policy in the beginning was directed against all states that might attempt to gain exclusive privileges in China, it came in recent years to have particular significance with respect to Japan. When Japan invaded Manchuria in 1931, the United States took the lead in trying to secure collective action to halt her. It was in the course of this episode that Secretary of State Stimson formulated his famous note, now generally called the "Stimson Doctrine," stating that the United States would not recognize "any situation, treaty, or agreement which may be brought about by means contrary to the covenants and obligations of the Pact of Paris" — in other words by acts of aggression. Under the Lend-Lease Act the United States began in 1941 to grant aid to China in its fight against the invading Japanese. Complete embargoes on oil and other strategic materials to Japan were long postponed by the United States, probably because of the importance of Japanese trade to the United States and because it was thought that an effective embargo would force the Japanese to attack the Dutch East Indies to secure oil. Since such an attack might involve the United States in war with Japan, the United

States preferred to follow a policy of appeasement. Besides, Japan did not seem to be making a great success of her aggression anyway.

Not only was the United States opposed to Japanese aggression on the continent of Asia, but it was opposed to any change in the *status quo* of the island possessions in the Far East.¹ This policy was incorporated into the Four Power Pact signed at the Washington Conference of 1922 by Japan, Great Britain, France, and the United States.

Because of American and British naval strength in the Far East and because of Japan's economic and military vulnerability, there seemed to be a question whether or not Japan would risk war with the Anglo-American forces unless and until the Nazis appeared to be within reach of victory in Europe. It appeared that prospects of a Nazi defeat and a firm Anglo-American policy might even pry Japan loose from the Axis. Hope of this, however, came to a sudden end with the Japanese attack on the United States.

The Policy of the United States in the Western Hemisphere. While in European affairs the United States has been interested only to the extent of preventing an unfavorable balance of power and in Asiatic affairs only to the extent of protecting American interests, it has been in the Western Hemisphere that the United States has played the leading role. The United States has looked upon the Western Hemisphere as an area where its interests take precedence over those of any non-American powers. The Monroe Doctrine, formulated by Secretary of State John Quincy Adams and enunciated by President Monroe in a message to Congress in 1823, for a long time has constituted the keystone to our Western Hemisphere policy. At the time the Monroe Doctrine was formulated, the United States wished to prevent certain European countries, members of the reactionary Holy Alliance, from intervening in Latin America to resubjugate the new republics which had recently declared their independence from Spain and Portugal. The Doctrine was also designed to prevent further colonization in the New World by Russia, which then still held Alaska and which was trying to extend its territorial claims southward along the Pacific Coast. Although the United States in 1823 was a relatively

¹ That is, any change in their *status quo* other than in the direction of their independence.

weak power, less than fifty years old as an independent state, in the accomplishment of the aims of the Monroe Doctrine it had the valuable support of Great Britain, who was also interested in keeping the members of the Holy Alliance in check. In fact, Great Britain originally desired to make the policy of the Monroe Doctrine a joint British-American policy, but our American statesmen rejected the offer.

The principles enunciated in the original Monroe Doctrine were three in number. First, the United States would regard as an unfriendly act any effort by a European power to interfere with the political system of the American continents; or, second, to acquire any new territory here. Third, the United States would not take any part in the politics or the wars of European powers "in matters relating to themselves."

In the years following 1823 the Monroe Doctrine developed in meaning as the circumstances demanded. In addition to the original content, certain principles came to be accepted corollaries of the Doctrine. The Doctrine was applied not only to European but to all non-American states. Even if an American state requested some non-American state to take it over, the United States would consider this a violation of the Monroe Doctrine. The transfer of territory from one foreign power to another would likewise be contrary to the Doctrine. The use of corporations or associations by non-American states to gain strategic footholds in the Americas was also declared in conflict with American interests in the Western Hemisphere. Finally, the Doctrine was applied to economic as well as to political imperialism by non-American countries. It can be seen, therefore, that the United States had ample precedents, if precedents were needed, for dealing with Axis intervention, direct or indirect, in the Western Hemisphere.

Yet it appeared that the enforcement of the principles of the Monroe Doctrine in the face of a victorious Axis might be difficult indeed. If native Fascist groups, aided only indirectly by foreign powers, gained control of important Latin-American states, it could be seen that the United States would face a real problem. Any direct action by the United States might be met with the old cry of "Yankee imperialism!" Because Latin-American trade, largely agricultural, is complementary to Europe and Asia rather than to the United States, it would be a huge if not impossible

task to keep Latin America from falling within the sphere of influence of the Axis. The Monroe Doctrine would thus be challenged as never before. It was this fact which helped to dictate our policy toward Europe. The United States was thus not abandoning the basic principles of the Monroe Doctrine by intervening in Europe and Asia in an attempt to prevent the Axis from establishing an unfavorable balance of world power; it was rather seeking to protect those principles by far-sighted prophylactic action.

Of vital importance in the Western Hemisphere policy of the United States is Pan-Americanism. Inaugurated by Secretary of State Blaine in 1889, the Pan-American movement, during the Administration of President Franklin D. Roosevelt in particular, became the positive aspect of Western Hemisphere solidarity. Whereas the Monroe Doctrine serves to summarize the policy of keeping non-American intruders out of this hemisphere, the Pan-American movement serves to promote genuine cooperation among the twenty-one American republics. The Western Hemisphere is not to be considered the exclusive field of exploitation of the United States, as the worst aspects of the "dollar diplomacy" early in the twentieth century led some Latin-American countries to believe; but rather it is to be considered a region for cooperative progress promoted by all the twenty-one republics as equals.

This policy of the "good neighbor" did not come into full bloom overnight. President Wilson helped to prepare the ground for it, as for example when, in his Mobile, Alabama, speech of October 27, 1913, he declared that the United States would "never seek one additional foot of territory by conquest." Later the United States went further and began to liquidate some of the imperial interests which it already held, as for example when the protectorate over Cuba was ended with the abrogation of the Platt Amendment in 1934. It should be added, however, that the United States retained special treaty rights in some of the Caribbean states, as for example in Nicaragua. Indeed, the whole Caribbean area constitutes a zone of such vital importance to American defense plans because of the Panama Canal and for other reasons that the United States must consider the Caribbean in a somewhat different light from the rest of Latin America.

Another contribution to the "good neighbor" policy was the abandonment by the United States of the claim to special rights,

other than those generally recognized under international law, to intervene in the affairs of Latin-American states. The excuse for armed intervention had been set forth by President Theodore Roosevelt in what came to be known as the "Roosevelt corollary" to the Monroe Doctrine. The argument was that if the United States expected non-American states to refrain from taking action in the Western Hemisphere when their alleged rights were violated by Latin-American states, where conditions were often unstable, the United States would have to see either that conditions did not exist which would lead to such alleged violations or else that when violations did occur they would be taken care of satisfactorily. This made Uncle Sam the policeman of the Western Hemisphere and made intervention practically unavoidable. It was easy for the Latin-American states to believe that intervention was undertaken not so much to protect their interests as to further those of the United States. In the Clark memorandum, made public in 1930, the United States officially repudiated the Roosevelt corollary. In 1934 and 1937 the United States ratified the Pan-American nonintervention treaties and so joined collective Pan-American repudiation of special rights to this unpopular device.

The United States in recent years has lent increasing support to Pan-American efforts to preserve peace in the Western Hemisphere and to protect it against the rising tide of Axis aggression. In 1938 at the Pan-American Conference at Lima, Peru, representatives of all twenty-one republics signed the Lima Declaration of solidarity "against all foreign intervention, [and] all activity that may threaten them." In the face of a threat to the peace, security, or territorial integrity of any American republic, they agreed to consult as to the measures to be taken. The first consultation under the Lima Declaration was held in Panama in September, 1939, just after the outbreak of the Second World War. It was at this conference that the twenty-one republics agreed to establish a special safety zone of 300 miles around the two Americas from Canada southward. Into this zone the belligerents were not to carry their war. Several violations of this Declaration of Panama, the most notable of which was the *Graf Spee* incident, brought vigorous protests from the Pan-American republics.

At the second consultation under the Lima Declaration, at Havana in the summer of 1940, a highly important agreement was

reached concerning American territories held by European powers. It was feared that territories held by conquered states might be taken by the Nazis as loot of war. The Pan-American republics therefore stated in the Declaration of Havana that "any transfer or attempt to transfer sovereignty, jurisdiction, possession or any interest or control in any of these regions to another non-American state" would be considered "contrary to American sentiments, principles and rights of American states to maintain their security and political independence." Any American state might take action in an extreme emergency in a "manner required for its defense or the defense of the continent." If non-American territories had to be occupied, they were to be administered by or under the supervision of an Inter-American Commission of Territorial Administration. When the war emergency was over, the occupied countries, if any, might be returned to their former status or they might be set up as autonomous states. The Havana Declaration thus carried one step further the cooperation for collective security in the Western Hemisphere and the Pan-Americanization of the Monroe Doctrine.¹

On the economic front the United States gave increasing attention to strengthening the economic ties of the Western Hemisphere. Great obstacles had to be faced here because in many fields the United States and the Latin-American countries were competitors. But under the Hull reciprocal trade treaties, tariff duties were reduced wherever possible, and the United States made a studied attempt to increase Pan-American trade. To bolster the financial status of Latin-American countries, the Export-Import Bank had made loans totaling \$33,815,000 as of March 31, 1941, with commitments for additional loans amounting to \$186,922,000.² Private American interests also increased their activities in Latin America to meet the growing economic competition of the Axis powers.

Nor was the cultural and intellectual side of Pan-Americanism neglected. The Pan-American Union, with permanent headquarters in Washington, D.C., had long been actively promoting better cultural relations among the Pan-American states. In the face of the Axis threat these activities were greatly increased.

¹ Dexter Perkins, *Hands Off: A History of the Monroe Doctrine*, Boston, 1941.

² Anon., "Export-Import Bank Loans to Latin America," *Foreign Policy Reports*, Vol. 17, No. 7, p. 84, June 15, 1941.

Scholarships were established for students, and visiting professors were exchanged. Good-will ambassadors shuttled back and forth between the United States and Latin America with great — sometimes, it was feared, with too great — abandon. In the State Department the special Division of Cultural Relations was set up in 1938 to lend official support to the strengthening of those intangible bonds which can mean so much for the success of the “good neighbor” policy. The United States was thus making a bid for some of the cultural and intellectual influence which has traditionally been wielded by the romance countries of southern Europe. The prompt declaration of war on the Axis Powers by a number of Latin-American states upon the beginning of our involvement in the conflict, together with the assurance of friendly support from others was indicative of a high degree of Pan-American solidarity.

Retrospect and Prospect. In looking back at the close of 1941 at the foreign policy of the United States for the past several decades it could be seen that only in the Western Hemisphere had we followed a policy which had consistently moved in the direction of collective security. To be sure, with respect to the Far East the United States had never in this period followed a policy of isolation, and in 1931 and subsequent years we took some steps to achieve a measure of collective action to discourage Japanese aggression. But on the other hand, these steps were at best faltering; and no consistent effort had been made to build up institutions of collective security for the Far East. Reliance had rather been put largely upon the use of the regular channels of diplomacy. This was quite in contrast with the development of institutions of collective security in the Pan-American sphere.

It was in the field of European relations, however, that the United States had been most inconsistent in the past three decades. If American policy toward European affairs was correct as of 1941, then the isolationism of the 1920's and 1930's had been very short-sighted indeed. If the United States could not remain aloof from Europe's wars, it should not have tried to remain aloof from attempts to prevent Europe's wars. On the other hand, if Europe's fortunes were correctly of no concern to the United States, a policy of isolation should have been even better in time of war than in time of peace. In short, what the United States needed to do was to adopt either a consistent policy of isolation or a consistent policy of active

cooperation to promote collective security. Either one would probably have been preferable to the inconsistencies of the past three decades which have finally resulted in the involvement of the United States in a Second World War which promises to put the first one in the shade.

Whatever the unhappy inconsistencies of the past, since Pearl Harbor and so long as the present conflict lasts, there can be only one purpose, one goal, for American foreign policy: to win the war as speedily and as thoroughly as possible. To this end all phases of American policy must be directed.

Even while this first objective is being attained by "toil, sweat, blood, and tears," a second objective no less important must be kept in mind — the winning of the peace. If the peace is to be won, appropriate plans and preparations must be made even while our main attention and energy are being devoted to winning the war. Among other things we shall have to make up our minds as to which of the three possible directions discussed earlier in this chapter we shall take. Shall we go consistently in the direction of regional insulation or of collective security, or shall we follow our traditional policy, which has shown no high regard for consistency?

It may well be that the lessons learned from the events leading up to the present war and from the war itself will permanently convince the American people that consistent regional insulation no longer remains as a possible choice for the United States. At any rate, as of 1941, even before Pearl Harbor, there was a decided trend indicating that the United States was coming to the realization that collective security was the policy which it should permanently adopt.

Although no official commitment had thus far been made to promote the revitalization of the League of Nations or to help in the establishment of a similar organization for world collective security, it was clear that the Roosevelt administration appreciated the need for American cooperation and leadership in collective security systems of the future. Thus, Acting Secretary of State Sumner Welles declared in a speech delivered in Washington, D. C., on July 22, 1941, that a stable peace following the destruction of the Nazis would necessitate the abolition of offensive armaments, and this "can only be undertaken through some rigid form of international supervision and control." The natural rights of all

peoples to equal economic enjoyment would also have to be established. In speaking of the League of Nations, Mr. Welles said: "I cannot believe that the peoples of good will will not once more strive to realize the great ideal of an association of nations. . . ."

In the so-called Atlantic Charter, the joint declaration issued by Prime Minister Churchill and President Roosevelt on August 14, 1941, following their historic meeting at sea, there were other important suggestions that the United States was looking forward to some sort of collective cooperation in international affairs in the future. The Atlantic Charter indicated two of the essential ingredients of a system of collective security: (1) the elimination of economic excuses for war, and (2) the existence of the necessary force to prevent wars of aggression. Thus in Point Five there was stated the "desire to bring about the fullest collaboration between all nations in the economic field with the object of securing, for all, improved labor standards, economic advancement and social security." In Point Six the signers expressed the hope "after the final destruction of the Nazi tyranny . . . to see established a peace which will afford to all nations the means of dwelling in safety within their own boundaries. . . ." In Point Eight, Roosevelt and Churchill expressed the belief that "*pending the establishment of a wider and permanent system of general security*" (italics supplied) the disarmament of aggressor nations was essential. While these cautious statements contained no definite commitments, they indicated clearly a desire to follow a policy which would move in the direction of collective security.

Concerning future collective security it may be said that while some machinery above and beyond mere diplomacy is probably necessary to put collective security on a stable basis, it is perhaps a mistake to assume that some grandiose superstate must succeed in the near future to the residual sovereignty of the nation-states. What is needed, however, is that a fair preponderance of the great and small states come to a realization of their community of interest in exercising a degree of intelligence, courage, and will to promote and secure justice in the international realm. If the intelligence, courage, and will are present, ways can easily be found to supply the necessary machinery. To the end that intelligence, courage, and will may be present, it seems certain that the United States must supply the world with its fair share of construc-

tive leadership. And when it is remembered that the United States wields from one-third to one-half the economic influence of the world,¹ then it must be realized that the American share in the world's leadership should be great indeed.

TERMS TO BE UNDERSTOOD

sovereign state	neutrality
collective security	Pan-Americanism
regional insulation	Monroe Doctrine
Open Door Policy	

QUESTIONS FOR DISCUSSION

1. What important developments in American foreign policy have taken place since this chapter was written in December, 1941? Has there been any noticeable trend toward regional insulation or toward collective security?
2. To what extent is it true that the United States has followed three different foreign policies for the three regions of Latin America, Europe, and the Far East?
3. Outline what you conceive to be the policy best calculated to preserve and enhance the interests of the United States in the peace conference after the war.
4. Would you favor an increase in the power of the President over foreign affairs? Of Congress? Of the people? Give reasons for your position.
5. Comment on the Atlantic Charter as a rough blueprint for our policy after the war. What defects and omissions do you note in this declaration?

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